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U. S. Department of Health, Education, and Welfare  
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19851-19900

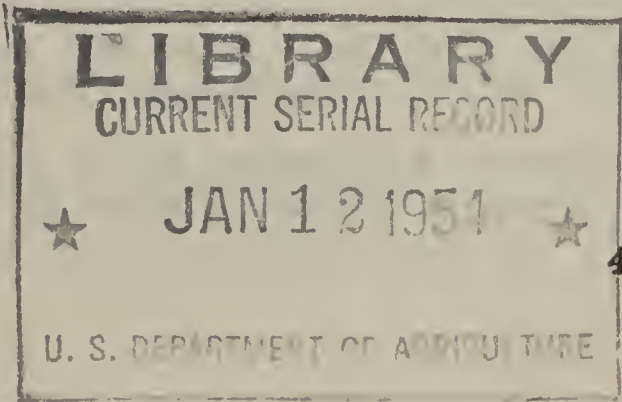
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *December 23, 1953.*

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## CEREALS AND CEREAL PRODUCTS

## CORNMEAL

**19851. Adulteration and misbranding of cornmeal. U. S. v. Humphreys Mills Co.**  
Plea of nolo contendere. Fine, \$500. (F. D. C. No. 33720. Sample  
Nos. 32422-L to 32424-L, incl., 34237-L.)

**INFORMATION FILED:** October 24, 1952, Western District of Tennessee, against  
the Humphreys Mills Co., a corporation, Memphis, Tenn.

**ALLEGED SHIPMENT:** Between the approximate dates of January 7 and 21, 1952,  
from the State of Tennessee into the States of Arkansas and Mississippi.

**LABEL, IN PART:** (Bags) "Honey Suckle Enriched Bolted White Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents,  
vitamin B<sub>1</sub>, riboflavin, and niacin, had been omitted in part from the article  
in all of the shipments, and, in addition, iron had been omitted in part from  
the article in two of the shipments.

Misbranding, Section 403 (g) (1), the article failed to conform to the defini-  
tion and standard of identity for cornmeal since the regulations prescribing  
a definition and standard of identity for cornmeal provide that the product  
shall contain in each pound, among other nutritional substances, not less than  
2 milligrams of thiamine (vitamin B<sub>1</sub>), not less than 1.2 milligrams of ribo-  
flavin, not less than 16 milligrams of niacin, and not less than 13 milligrams  
of iron, whereas the article contained in each pound less thiamine (vitamin  
B<sub>1</sub>), less riboflavin, and less niacin, and, in two of the shipments, less iron  
than required by the regulations. Further misbranding, Section 403 (a), the  
statements "Eight ounces of this product contain the following proportions  
of the adult minimum daily requirements of Vitamin B<sub>1</sub> 100%, Riboflavin 30%,  
Iron 65% and 8 Mg. of Niacin," borne on the labels, were false and misleading  
since 8 ounces of the article contained less than the declared proportions of the  
adult minimum daily requirements for vitamin B<sub>1</sub> and riboflavin, less than the  
declared amount of niacin, and, in two of the shipments, less than the declared  
proportion of the adult minimum daily requirement for iron.

**DISPOSITION:** November 7, 1952. A plea of nolo contendere having been entered,  
the court imposed a fine of \$500 against the defendant.

**19852. Adulteration of cornmeal. U. S. v. 19 Bales, etc. (and 2 other seizure  
actions).** (F. D. C. Nos. 33918 to 33920, incl. Sample Nos. 62123-L  
to 62126-L, incl., 62128-L to 62133-L, incl.)

**LIBELS FILED:** October 9, 1952, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about September 2, 5, and 16, 1952, by D. L. Morris  
Milling Co., Inc., from Ritchey, Mo.

**PRODUCT:** 66 bales, each containing 10 5-pound sacks, 194 bales, each contain-  
ing 5 10-pound sacks, and 226 sacks, each containing 25 pounds, of cornmeal  
at Springdale, Ark.

**LABEL, IN PART:** "The Honey Creek Mill White Corn Meal" and "The Shoal  
Creek Mills \* \* \* Waterground Fresh White Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in  
whole or in part of a filthy substance by reason of the presence of rodent  
excreta.



**DISPOSITION:** December 8, 1952. D. L. Morris Milling Co., Inc., claimant, having consented to the entry of a decree, judgments of condemnation were entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

### FLOUR

**19853. Adulteration of flour. U. S. v. 37 Bags, etc. (F. D. C. No. 33871. Sample Nos. 2341-L to 2347-L, incl., 2630-L to 2636-L, incl.)**

**LIBEL FILED:** September 18, 1952, Northern District of Georgia.

**ALLEGED SHIPMENT:** Between the approximate dates of March 28 and July 15, 1952, from Minneapolis, Minn., Memphis, Tenn., Atchison, Kans., Springfield, Ill., and Louisville, Ky.

**PRODUCT:** 212 100-pound bags, 1,264 25-pound bags, 191 50-pound bags, and 321 10-pound bags of flour at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 8, 1952. Pillsbury Mills, Inc., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregating and the denaturing of the unfit portion, under the supervision of the Food and Drug Administration. All of the flour subsequently was used in the manufacture of wallboard.

**19854. Adulteration of flour. U. S. v. 13 Bags, etc. (F. D. C. No. 33886. Sample Nos. 2225-L, 2226-L.)**

**LIBEL FIELD:** September 25, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about June 16 and 17 and August 15, 1952, from Minneapolis, Minn., and Louisville, Ky.

**PRODUCT:** 38 100-pound bags of flour at Jacksonville, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**19855. Adulteration of flour. U. S. v. 12 Bags \* \* \*. (F. D. C. No. 33896. Sample No. 2426-L.)**

**LIBEL FILED:** September 29, 1952, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about August 20, 1952, by the Pillsbury-Ballard Co., from Atlanta, Ga.

**PRODUCT:** 12 100-pound bags of flour at Asheville, N. C.

**LABEL, IN PART:** "Ballard's B. B. F. Special Bleached Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** November 3, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

**19856. Adulteration of flour. U. S. v. 11 Bags, etc. (F. D. C. No. 33651. Sample Nos. 48723-L, 48724-L.)**

**LIBEL FILED:** August 19, 1952, District of North Dakota.

**ALLEGED SHIPMENT:** On or about April 11, 25, and 28, and May 2, 1952, from Great Falls, Mont.

**PRODUCT:** 21 50-pound bags of flour and 5 25-pound bags of flour at Williston, N. Dak., in the possession of Red Owl Store No. 898.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 3, 1952. Default decree of condemnation and destruction.

**19857. Adulteration of flour. U. S. v. 6 Bales, etc. (F. D. C. No. 33929. Sample Nos. 62233-L to 62235-L, incl.)**

**LIBEL FILED:** October 20, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about March 11, May 24, June 12, and August 16, 1952, from Salina, Kans.

**PRODUCT:** 6 bales, each containing 10 5-pound bags, 11 bales, each containing 5 10-pound bags, and 42 25-pound bags, of self-rising flour, and 7 bales, each containing 10 5-pound bags, and 5 bales, each containing 5 10-pound bags, of phosphated flour at Humboldt, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of live insects. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 14, 1952, J. C. Edenton Co., Humboldt, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as hog feed under the supervision of the Federal Security Agency. On February 9, 1953, the decree was amended to provide for the destruction of the self-rising flour and to permit the phosphated flour to be used for animal or poultry feed.

**19858. Adulteration of rye flour. U. S. v. 8 Bags \* \* \*. (F. D. C. No. 33867. Sample No. 33028-L.)**

**LIBEL FILED:** September 22, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about May 8 and 9, 1952, from Minneapolis, Minn.

**PRODUCT:** 8 100-pound bags of rye flour at Chicago, Ill.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live larvae, live beetles, and insect webbing. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

**19859. Adulteration of flour and bakery mix. U. S. v. 29 Bags, etc. (F. D. C. No. 33864. Sample Nos. 37925-L, 37926-L.)**

**LIBEL FILED:** September 16, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 8 and 13, 1951, from Scranton, Pa., and on or about July 7 and August 11, 1952, from Emmaus, Pa.

**PRODUCT:** 29 100-pound bags of flour and 3 drums containing a total of approximately 375 pounds of bakery mix at Newton, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 7, 1952. Default decree of condemnation and destruction.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS\*

**19860. Adulteration of rolled oats. U. S. v. 14 Bags \* \* \*. (F. D. C. No. 33681. Sample No. 54426-L.)**

**LIBEL FILED:** September 28, 1952, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about March 18 and June 6, 1952, from Cedar Rapids, Iowa.

**PRODUCT:** 14 100-pound bags of rolled oats at Appleton, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 27, 1952. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as hog feed.

**19861. Adulteration of rice. U. S. v. 277 Bags \* \* \*. (F. D. C. No. 33582. Sample Nos. 2228-L, 2327-L.)**

**LIBEL FILED:** September 11, 1952, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about March 26, 1952, from Weiner, Ark.

**PRODUCT:** 277 25-pound bags of rice at Savannah, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

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\*See also No. 19859.

**DISPOSITION:** November 26, 1952. Sam S. Berman Co., Ltd., Savannah, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into stock feed, under the supervision of the Federal Security Agency. The claimant subsequently stated that it did not wish to take possession of the product, and, accordingly, the court entered an order on January 2, 1953, providing for the delivery of the product to a charitable institution, for use as animal feed.

**19862. Adulteration of rice. U. S. v. 20 Bags, etc. (F. D. C. No. 33658. Sample Nos. 33026-L, 33027-L.)**

**LIBEL FILED:** August 28, 1952, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about June 12, 1952, from Carlisle, Ark.

**PRODUCT:** 31 100-pound bags of rice at Bluffton, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 29, 1952. Default decree of condemnation. The court ordered that the product be denatured for use as animal feed.

**19863. Adulteration of soy grits. U. S. v. 18 Bags \* \* \*. (F. D. C. No. 33939. Sample No. 2439-L.)**

**LIBEL FILED:** On or about October 21, 1952, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about April 7, September 22, and October 2, 1952, from Decatur, Ill.

**PRODUCT:** 18 100-pound bags of soy grits at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 25, 1952. Default decree of condemnation. The court ordered that the product be disposed of for use as animal feed.

## DAIRY PRODUCTS

### BUTTER\*

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 19864 to 19868, and that was below the legal standard for milk fat content, No. 19868.

**19864. Adulteration of butter. U. S. v. 50 Cartons (3,000 pounds) \* \* \*. (F. D. C. No. 33964. Sample No. 49746-L.)**

**LIBEL FILED:** On or about September 11, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about August 23, 1952, by the Stonehill Creameries Co., from Tracy, Minn.

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\*For oleomargarine labeled "butter," see No. 19892.



**PRODUCT:** 50 cartons, each containing 60 pounds, of butter at Jersey City, N. J.  
**LABEL, IN PART:** "June Dairy Products Co. Inc. Distributors \* \* \* Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was made from filthy cream and contained insect fragments, rodent hairs, and plant fragments.

**DISPOSITION:** October 22, 1952. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be denatured and disposed of for fat salvage.

**19865. Adulteration of butter. U. S. v. 15 Cubes (960 pounds) \* \* \*. (F. D. C. No. 33961. Sample No. 43962-L.)**

**LIBEL FILED:** On or about August 14, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about July 5, 1952, by Andre French Ice Cream Co., Inc., from Holton, Kans.

**PRODUCT:** 15 64-pound cubes of butter at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was contaminated with a filthy animal substance; and, Section 402 (a) (4), it had been prepared from filthy cream under insanitary conditions.

**DISPOSITION:** September 16, 1952. Default decree of condemnation and destruction.

**19866. Adulteration of butter. U. S. v. 13 Tubs \* \* \*. (F. D. C. No. 33958. Sample No. 11047-L.)**

**LIBEL FILED:** On or about September 2, 1952, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about July 15, 1952, by the Field Packing Co., from Owensboro, Ky.

**PRODUCT:** 13 65-pound tubs of butter at Evansville, Ind. Analysis showed that the product was made from decomposed cream.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 9, 1952. Default decree of forfeiture. The court ordered that the product be destroyed or sold for fat salvage. The product was sold to be converted into soap grease.

**19867. Adulteration of butter. U. S. v. 2½ Cases, etc. (F. D. C. No. 33963. Sample Nos. 44705-L, 44706-L.)**

**LIBEL FILED:** August 29, 1952, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 7, 1952, by American Dairies, Inc., from Kansas City, Mo.

**PRODUCT:** 16½ cases, each containing 32 pounds, of butter at Boston, Mass.

**LABEL, IN PART:** "Penn Valley Brand Creamery Butter" and "Prairie Rose Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of fly and other insect fragments, rodent hairs, and decomposed cream.

**DISPOSITION:** October 16, 1952. Default decree of condemnation and destruction.

**19868. Adulteration of butter. U. S. v. 56 Boxes (3,584 pounds) \* \* \*.**  
(F. D. C. No. 33960. Sample No. 65262-L.)

**LIBEL FILED:** August 23, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about July 17, 1952, by the Star Creamery Association, from Henderson, Minn.

**PRODUCT:** 56 64-pound boxes of butter at Minneapolis, Minn.

**LABEL, IN PART:** "Butter Distributed by C. W. Dunnet & Co. Philadelphia, Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly and insect fragments, insect egg, rodent hairs, and manure; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** October 24, 1952. A default decree was entered, ordering the product denatured for use as animal feed or disposed of for rendering purposes by the U. S. marshal.

## FISH AND SHELLFISH

**19869. Adulteration of canned kippered herring. U. S. v. 125 Cases \* \* \*.**  
(F. D. C. No. 33597. Sample No. 39856-L.)

**LIBEL FILED:** July 22, 1952, Southern District of California.

**ALLEGED SHIPMENT:** Prior to June 19, 1952, from Stavanger, Norway.

**PRODUCT:** 125 cases, each containing 50 4-ounce tins, of kippered herring at Vernon, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 19, 1952. Chr. Bjelland & Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Federal Security Agency.

The product was commingled with the product involved in the case reported in notices of judgment on food, No. 19423, for the purpose of segregating the good from the bad. As a result of such segregation, approximately 87 cans of the commingled product were found unfit and were destroyed.



**19870. Misbranding of canned sardines. U. S. v. 150 Cases \* \* \*. (F. D. C. No. 33625. Sample No. 41930-L.)**

**LIBEL FILED:** August 7, 1952, District of Hawaii.

**ALLEGED SHIPMENT:** On or about July 30, 1952, by the Funsten Co., from San Francisco, Calif.

**PRODUCT:** 150 cases, each containing 48 tins, of sardines at Honolulu, T. H.

**LABEL, IN PART:** "AAA Triple A Brand Net Weight 15 Oz. Monterey Bay California Sardines \* \* \* San Xavier Fish Packing Company San Francisco California."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the labeled 15 ounces net weight.)

**DISPOSITION:** August 28, 1952. Theo. H. Davies & Co., Ltd., Honolulu, T. H., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

**19871. Adulteration of crabmeat. U. S. v. 46 Cans \* \* \* (and 2 other seizure actions). (F. D. C. Nos. 33967 to 33969, incl. Sample Nos. 21386-L to 21388-L, incl.)**

**LIBELS FILED:** On or about August 15, 1952, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about August 12, 1952, by the Pascagoula Crab Co., from Pascagoula, Miss.

**PRODUCT:** 202 1-pound cans of crabmeat at New Orleans, La. Examination showed that the product was contaminated with *E. coli* of fecal origin.

**NATURE OF CHARGE:** Adulteration, Sections 402 (a) (3) and (4), the article consisted in whole or in part of a filthy animal substance and was packed in an insanitary factory.

**DISPOSITION:** September 15 and 16, 1952. Default decrees of condemnation and destruction.

**19872. Adulteration and misbranding of oysters. U. S. v. 144 Cans \* \* \*. (F. D. C. No. 33946. Sample No. 39250-L.)**

**LIBEL FILED:** October 21, 1952, District of Maine.

**ALLEGED SHIPMENT:** On or about October 15, 1952, by George O. Powley & Co., from Wingate, Md.

**PRODUCT:** 144 1-pint cans of oysters at Portland, Maine.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: October 27, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution.

19873. Adulteration of oysters. U. S. v. 59 Cans \* \* \*. (F. D. C. No. 33915. Sample No. 38769-L.)

LIBEL FILED: October 3, 1952, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about September 29, 1952, by E. I. Webb & Co., from Weems, Va.

PRODUCT: 59 1-pint cans of oysters at High Point, N. C.

LABEL, IN PART: "Oysters Standards Moonlight Bay Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: November 20, 1952. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

19874. Misbranding of canned cherries. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 33906. Sample No. 40840-L.)

LIBEL FILED: October 1, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about September 1, 1952, by Seufert Bros. Co., from The Dalles, Oreg.

PRODUCT: 98 cases, each containing 6 6-pound, 11-ounce cans, of cherries at New York, N. Y.

LABEL, IN PART: (Can) "Regal Silver Banner Light Sweet Pitted Royal Anne Cherries."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned pitted cherries since it contained an excessive number of pits and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: December 12, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

19875. Misbranding of canned cherries. U. S. v. 74 Cases \* \* \*. (F. D. C. No. 33897. Sample No. 14552-L.)

LIBEL FILED: October 7, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about July 22, 1952, by Intermountain Food Co., Inc., from Murray, Utah.

PRODUCT: 74 cases, each containing 6 6-pound, 10-ounce cans, of cherries at Denver, Colo.



**LABEL, IN PART:** (Can) "Rocky Mountain High Altitude Mellhorn Quality Unpitted Royal Anne Light Sweet Cherries in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cherries since it contained cherries weighing less than 1/10 of an ounce and the weight of the largest cherries in the container was more than twice the weight of the smallest cherries, and the label failed to bear a statement that the product fell below the standard; and, Section 403 (h) (2), the product fell below the standard of fill of container for canned cherries since it did not contain the maximum quantity of the cherry ingredient which could be sealed in the container and processed by heat to prevent spoilage, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** December 3, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19876. Misbranding of canned peaches. U. S. v. 699 Cases, etc. (F. D. C. Nos. 33908, 33909. Sample Nos. 2698-L, 2700-L.)**

**LIBELS FILED:** October 13, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 6 and 15, 1952, by the Jones Bros. Canning Co., from Greer, S. C.

**PRODUCT:** 1,197 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Miami, Fla.

**LABEL, IN PART:** (Can) "Cedar Rock Brand \* \* \* Yellow Freestone Peaches In Light Syrup Mixed Pieces of Irregular Sizes and Shapes."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear, as required by the definition and standard, the name of the optional peach ingredient present since the label bore the statement "Mixed Pieces of Irregular Sizes and Shapes," whereas the product was peach halves; and, Section 403 (h) (1), the product fell below the standard of quality for canned peaches since the peaches did not meet the test for tenderness prescribed by the standard and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** December 2, 1952. The Apte Brokerage Co., Miami, Fla., having appeared as claimant, judgments of condemnation were entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19877. Misbranding of canned peaches. U. S. v. 748 Cases \* \* \*. (F. D. C. No. 33873. Sample No. 7944-L.)**

**LIBEL FILED:** September 18, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 18, 1952, by Moyer Bros., from Luray, Va.

**PRODUCT:** 748 cases, each containing 24 1-pound, 12-ounce cans, of peaches at Pittsburgh, Pa.

**LABEL, IN PART:** (Can) "Stony Man Brand \* \* \* Yellow Freestone Peaches Halves in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear the name of the optional packing medium present since the label bore the statement "in Heavy Syrup" and the peaches were packed in light sirup; and, Section 403 (h) (1), the article fell below the standard of quality for canned peaches since all peach units of the article did not meet the test for tenderness prescribed by the standard and the weight of the largest unit in the container of the article was more than twice the weight of the smallest unit therein, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** October 1, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product subsequently was relabeled.

**19878. Misbranding of canned peaches. U. S. v. 247 Cases \* \* \*. (F. D. C. No. 33874. Sample No. 28239-L.)**

**LIBEL FILED:** September 25, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 15, 1952, by the George Noroian Co., from Dinuba, Calif.

**PRODUCT:** 247 cases, each containing 24 6-pound, 4-ounce cans, of peaches at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Parke's Brand Canned Fancy White Nectar Peaches In Extra Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear, as required by the definition and standard, the name of the optional peach ingredient and the name of the optional packing medium present since the label bore the statement "Nectar Peaches In Extra Heavy Syrup" and the product was halves of freestone peaches and was packed in heavy sirup.

**DISPOSITION:** October 27, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### MISCELLANEOUS FRUIT PRODUCTS

**19879. Adulteration of blended grapefruit and pineapple juice. U. S. v. 150 Cases \* \* \* (and 2 other seizure actions). Cases consolidated and tried to a jury; verdict for the Government. Judgment of condemnation and destruction. Appeal to Circuit Court of Appeals for Fifth Circuit; judgment of lower court affirmed. (F. D. C. Nos. 27320, 27465, 27568. Sample Nos. 13554-K, 58196-K, 63613-K.)**



**LIBELS FILED:** June 10 and July 12 and 13, 1949, District of Maryland, Southern District of California, and Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 20, 27, and 30, 1949, by Bruce's Juices, Inc., from Tampa, Fla.

**PRODUCT:** Blended grapefruit and pineapple juice: 150 cases at Baltimore, Md.; 542 cases at Los Angeles, Calif.; and 246 cases at Philadelphia, Pa. Each case contained 12 1-quart, 14-fluid-ounce cans.

**LABEL, IN PART:** (Cans) "Pin Gra \* \* \* Grapefruit-Pineapple Juices Blended" or "Parke's Brand Canned \* \* \* Blended Pineapple and Grapefruit Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fruit material.

**DISPOSITION:** Bruce's Juices, Inc., appeared as claimant in all cases. Pursuant to stipulation entered into between counsel for the claimant and the United States attorneys, orders for the removal and consolidation of the cases for trial in the Northern District of Florida were entered on August 17 and September 7, 1949. Exceptions to the three libels filed by the claimant were argued on February 17, 1950, and on February 22, 1950, the court entered an order denying the exceptions.

An answer was filed by the claimant denying that the product was adulterated as alleged in the libel, and on September 18, 1950, the consolidated cases came on for trial before the court and jury. The trial was concluded on September 18, 1950, with the return by the jury of a verdict for the Government. On September 21, 1950, judgments of condemnation were entered and the court ordered that the product be destroyed.

An appeal was taken by the claimant to the Circuit Court of Appeals for the Fifth Circuit, and on March 4, 1952, that court affirmed the judgment of the District Court, handing down the following opinion:

HUTCHESON, *Chief Judge*: "Appealing from judgments entered on verdicts for the United States, condemning as adulterated, under Secs. 334 (a) & (b) and 342, Title 21 U. S. C., shipments of cans of blended pineapple and grapefruit juice, claimant in the consolidated causes is here seeking their reversal.

"Of its claimed errors, three go to the matters of procedure, three to matters of substance.

"Of the latter, the first is that a verdict should have been directed on the ground that the United States had not proved the food to be unfit for human consumption.

"The second is that failure of the government to publish its standard for the product seized, as required by Sec. 341, Title 21 U. S. C., precludes enforcement of the adulteration provisions of the title.

"The third is that a verdict should have been directed because the United States failed to prove that the product was decomposed as charged.

"Of the first of these, it is sufficient, we think, to say that it was not brought under the 'or otherwise unfit for food' provision, Sec. 342 [402] (a) (3). The libel charged that the product was adulterated in that it was decomposed and the proof conformed to the libel. Appellant's contention, in effect that the alternative provision of the section must be read into the prior provision, will not do. It is contrary to the plain language and meaning of the statute and, as appellant admits, to its uniform construction by the courts.<sup>1</sup>

<sup>1</sup> 200 Cases of Salmon, 289 Fed. 157 (So. Dist. of Texas); Salamonie Packing Co. v. U. S., 165 F(2) 205 (C. O. 8), cert. denied 333 U. S. 863; United States v. 1851 Cartons, etc., 146 F(2), 760, 761 (C. A. 10); U. S. v. 935 Cases \* \* \* Tomato Puree, 65 F. Supp. 503 (N. D. Ohio); U. S. v. Lazere, 56 Fed. Supp. 730, 732 (N. D. Iowa); U. S. v. 184 Barrels Dried Whole Eggs, 53 F. Supp. 652, 655-656 (E. D. Wis.).



"Of its second position, there is little that needs saying, for the plain answer to it is that, as clearly appears on its face, Sec. 341, invoked by appellant, has no relation to, no connection with, the adulteration provisions of the act. *United States v. 36 Drums*, 164 F (2) 250. It relates to, its office is in connection with the misbranding provision, Sec. 343 [403] (h).<sup>2</sup>

"Its third position, that there was a failure to prove the decomposition as alleged, searches the whole record. If the judge had instructed a verdict against claimant, and the search were for evidence which would support a verdict for it, we should agree with claimant that the search would not be in vain. Unfortunately for it, however, with a jury verdict against it, the shoe is on the other foot. The search must reveal, not that there is no substantial evidence in support of claimant's view, but that there is none for condemnation and the record contains not only some evidence, but enough evidence, if believed, to support the verdict.

"We come now to appellant's claims of procedural error, to find, as a brief analysis will show, that they are no better taken.

"As to the first, that the libel was not sufficiently specific and the exception to it on that ground should have been sustained, it need only be pointed out that, assuming without deciding<sup>3</sup> that the exception was technically good, no prejudice whatever is shown to have followed its overruling. Appellant was given all the time it needed to put its evidence in, and no claim was, or could have been, made that, because of the meagerness of the libel, appellant was prevented by surprise from fully rebutting the government's proof.

"The second, that the court forced claimant to accept the Government tests for decomposed matter, is not borne out by the record. What, and all, that the record shows is that the Government proceeded in its way to show decomposition, and claimant proceeded in its way to rebut the showing. The claimant, it is true, did insist that the Government's mold count method of showing decomposition, especially as sought to be applied in this case, was erroneous, but this went to its weight and not to its admissibility, and it was for the jury to decide, as the court permitted it to do, the weight and effect of the opposing evidence.

"Its final complaint, that the court erred in refusing to permit the jury to subject the samples to the test of their senses of sight, smell, and taste, on first and casual consideration, does seem to have merit. *Wigmore on Evidence*, 3rd Ed. Vol. 4, Sec. 1151; but see Sec. 1152. But the merit is only seeming, for the matter proposed to be determined by the senses of the jury, whether the article is decomposed, was not a matter cognizable by the senses, and was, therefore, not a matter for which such tests are suitable.

"What the ruling should have been if the issue had been, as appellant contended it was, whether the juice was fit for use as food, is not before us for decision. The issue being what it was, sampling by the jury could not have solved it.

"We are of the opinion that the ruling complained of was within the allowable discretion of the district judge and could not constitute reversible error.

"No reversible error appearing, the judgment is **AFFIRMED**."

On September 8, 1952, the United States District Court for the Northern District of Florida entered orders providing for the destruction of the condemned goods and for taxing costs against the claimant.

19880. Adulteration of prune juice. U. S. v. 63 Cases \* \* \*. (F. D. C. No. 34456. Sample No. 37886-L.)

LIBEL FILED: December 23, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about November 13, 1952, by the American Fig & Date Co., from New York, N. Y.

PRODUCT: 63 cases, each containing 12 1-quart bottles, of prune juice at Perth Amboy, N. J.

<sup>2</sup> Cf. *Fed. Security v. Quaker Oats*, 318 U. S. 218.

<sup>3</sup> Cf. Seven cases of *Eckman's v. U. S.*, 239 U. S. 510; *Colonial Sand & Stone Co. v. Muscelli*, 151 F(2) 884.



**LABEL, IN PART:** (Bottle) "Green Circle Prune Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and insect excreta.

**DISPOSITION:** February 16, 1953. Default decree of condemnation and destruction.

### VEGETABLES

**19881. Adulteration and misbranding of canned field peas with cut snaps. U. S. v. 424 Cases \* \* \*. (F. D. C. No. 33861. Sample No. 2156-L.)**

**LIBEL FILED:** September 17, 1952, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about July 21, 1952, by the Ploeger-Abbott Co., from Waynesboro, Ga.

**PRODUCT:** 424 cases, each containing 24 cans, of field peas with cut snaps at Charlotte, N. C. Examination of the product showed that the average drained weight of the cans was 10.04 ounces; that the average net weight was 17.15 ounces; and that the product contained an excessive amount of brine. The cans were not No. 2 as labeled, but were actually 303 x 406 size cans.

**LABEL, IN PART:** (Can) "Ken-Dawn Field Peas with Cut Snaps Net Weight 1 Lb. Oz." or (some cans) "Net Weight 1 Lb. 3 Oz. \* \* \* This is a No. 2 can."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), brine had been substituted in part for field peas with cut snaps.

Misbranding, Section 403 (a), the label statement "This is a No. 2 can" was false and misleading as applied to a 303 by 406 size can; and, Section 403 (e) (2), some cans of the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Net Weight 1 Lb. 3 Oz." was inaccurate.

**DISPOSITION:** November 6, 1952. The Ploeger-Abbott Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

**19882. Misbranding of canned peas. U. S. v. 100 Cartons \* \* \*. (F. D. C. No. 33533. Sample No. 4329-L.)**

**LIBEL FILED:** August 25, 1952, District of Puerto Rico.

**ALLEGED SHIPMENT:** On or about July 30, 1952, by J. Langrall & Bro., Inc., from Baltimore, Md.

**PRODUCT:** 100 cartons, each containing 24 1-pound, 4-ounce cans, of peas at San Juan, P. R.

**LABEL, IN PART:** "Ridge Farm Brand \* \* \* Dried June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peas because the skins of more than 24 percent of the peas in the container were ruptured to a width of  $\frac{1}{8}$  inch or more and the alcohol-insoluble solids of the peas were more than 23.5 percent, and the label failed to bear a statement that the product fell below such standard.

DISPOSITION: November 6, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

19883. Misbranding of frozen green peas. U. S. v. 699 Cases \* \* \*. (F. D. C. No. 33866. Sample Nos. 8729-L, 8730-L.)

LIBEL FILED: September 16, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about July 29, 1952, by the Hershey Packing Co., from Snohomish, Wash.

PRODUCT: 2,206 cases, each containing 24 packages of frozen green peas at Albany, N. Y.

LABEL, IN PART: (Package) "River Valley Frozen Fresh Fancy Green Peas Net Wt. 12 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short of the declared weight.)

DISPOSITION: October 25, 1952. Albany Frosted Foods, Inc., Albany, N. Y. claimant for 156 cases of the product actually seized, and the Hershey Packing Co., claimant for the balance of the product actually seized, namely, 1,507 cases, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

19884. Adulteration of dehydrated potatoes. U. S. v. 60 Bags \* \* \*. (F. D. C. No. 33588. Sample No. 41782-L.)

LIBEL FILED: On or about September 22, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about June 30, 1952, from Atlanta, Ga.

PRODUCT: 60 50-pound bags of dehydrated potatoes at Vineland, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 23, 1952. Default decree of condemnation and destruction.

19885. Adulteration of canned okra and tomatoes. U. S. v. 18 Cases \* \* \*. (F. D. C. No. 33876. Sample No. 59017-L.)

LIBEL FILED: September 24, 1952, Western District of South Carolina.

ALLEGED SHIPMENT: On or about June 9, 1950, from Franklinton, La.

PRODUCT: 18 cases, each containing 6 1-pound, 3-ounce cans, of okra and tomatoes at Spartanburg, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 22, 1952. Default decree of condemnation and destruction.



## TOMATOES AND TOMATO PRODUCTS

**19886. Misbranding of canned tomatoes. U. S. v. 465 Cases \* \* \*. (F. D. C. No. 33870. Sample No. 44536-L.)**

**LIBEL FILED:** September 19, 1952, District of Connecticut.

**ALLEGED SHIPMENT:** On or about August 11, 1952, by the Chester Packing Co., from Chestertown, Md.

**PRODUCT:** 465 cases, each containing 24 1-pound cans, of tomatoes at Stamford, Conn.

**LABEL, IN PART:** (Can) "Pride of the Farm Brand \* \* \* Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container was less than 50 percent of the weight of the water required to fill the container and its label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** October 31, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Federal Security Agency.

**19887. Adulteration of tomato juice. U. S. v. 67 Cases \* \* \*. (F. D. C. No. 33671. Sample No. 53911-L.)**

**LIBEL FILED:** On or about September 8, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about August 6, 1952, by the Alamo Products Co., from Alamo, Tex.

**PRODUCT:** 67 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Springfield, Mo.

**LABEL, IN PART:** "Magic Garden Texas Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** October 27, 1952. Default decree of destruction.

**19888. Adulteration of tomato paste. U. S. v. 2,925 Cases \* \* \*. (F. D. C. No. 32997. Sample No. 3904-L.)**

**LIBEL FILED:** April 3, 1952, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about May 31, 1951, by Flotill Products, Inc., from Brooklyn, N. Y.

**PRODUCT:** 2,925 cases, each containing 6 9-pound, 14-ounce cans, of tomato paste at Richmond, Va.

**LABEL, IN PART:** (Cans) "ICA Industria Piacenza Italy Tomato Paste Dry Matter 28/30%" and "Oro Brand Packed In Italy Italian Tomato Paste."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** On May 1, 1952. Default decree of condemnation. The court ordered that the product be delivered to State institutions for their use. The product was used as animal feed.

## NUTS

**19889. Adulteration of unshelled walnuts. U. S. v. 12 Bags \* \* \*. (F. D. C. No. 33649. Sample No. 48720-L.)**

**LIBEL FILED:** August 16, 1952, District of South Dakota.

**ALLEGED SHIPMENT:** On or about November 1, 1951, from Los Angeles, Calif.

**PRODUCT:** 12 100-pound bags of unshelled walnuts at Rapid City, S. Dak., in the possession of the Black Hills Albright Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 23, 1952. Black Hills Albright Grocery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. 674 pounds of the product were segregated as unfit and were destroyed.

**19890. Adulteration of black walnut kernels. U. S. v. 23 Cartons, etc. (F. D. C. No. 33903. Sample No. 26427-L.)**

**LIBEL FILED:** October 3, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 8, 1952, by Arthur P. Slaughter, from Bristol, Tenn.

**PRODUCT:** 23 50-pound cartons and 1 25-pound carton of black walnut kernels at Philadelphia, Pa.

**LABEL, IN PART:** "Tennessee Valley Blue Grass Brand Black Walnut Kernels."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed nuts.

**DISPOSITION:** October 21, 1952. The shipper having indicated that it had no objection to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

## OILS AND FATS

**19891. Adulteration and misbranding of table and cooking oils. U. S. v. 10 Cases, etc. (and 7 other seizure actions). (F. D. C. Nos. 11861, 11885, 11972 to 11974, incl., 12018, 12019, 12070. Sample Nos. 50970-F, 57263-F to 57265-F, incl., 76113-F, 76117-F, 76119-F, 76481-F to 76483-F, incl., 77829-F, 77830-F.)**



**LIBELS FILED:** Between the approximate dates of February 21 and March 23, 1944, District of New Jersey, District of Connecticut, and Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of August 4, 1943, and February 7, 1944, by Antonio Corrao, from Brooklyn, N. Y.

**PRODUCT:** Table and cooking oils. 18 cases, each containing 6 1-gallon cans, and 3 cases, each containing 12 ½-gallon cans, at Long Branch, N. J.; 38 cases, each containing 6 1-gallon cans, at New Britain, Conn.; 12 cartons, each containing 6 1-gallon cans, and 2 cartons, each containing 12 ½-gallon cans, at North Plainfield, N. J.; 119 1-gallon cans at Hartford, Conn.; 23 1-gallon cans at New Haven, Conn.; and 89 1-gallon cans and 22 cartons, each carton containing 6 1-gallon cans, at Philadelphia, Pa.

**LABEL, IN PART:** "La Sposa Brand \* \* \* 80% Cottonseed & Peanut Oils 20% Imported Olive Oil Packed By Universal Salad Oil Co. Brooklyn, N. Y.," "Figlia Mia Brand \* \* \* 80% Cottonseed & Peanut Oils 20% Pure Olive Oil Packed By Universal Salad Oil Co. Brooklyn, N. Y.," and "Pace O Mio Dio Brand Societa Italiana Commerciale Brooklyn, N. Y. Peanut Oil and Imported Olive Oil."

**NATURE OF CHARGE:** All brands. Adulteration, Section 402 (b) (2), cottonseed oil containing very little olive oil and little or no peanut oil had been substituted in whole or in part for 80 percent cottonseed and peanut oils and 20 percent olive oil.

La Sposa Brand. Misbranding, Section 403 (a), the name "La Sposa," the statement "Guaranteed To Satisfy Italian Taste," references to the use of the article "In the Italian Kitchen and Table" and "In the Making of Italian Spaghetti Sauce" on one side panel of the label, and statements in Italian on the other side panel of the label were misleading since they created the impression that the article, or a substantial proportion of it, consisted of imported olive oil, whereas it contained very little olive oil; and the label statement "Composed of 80% Cottonseed & Peanut Oils 20% Imported Olive Oil" was false and misleading as applied to the article, which consisted essentially of cottonseed oil containing very little olive oil and little or no peanut oil.

Figlia Mia Brand. Misbranding, Section 403 (a), the name "Figlia Mia," coupled with the design on the label and the statements "Guaranteed To Satisfy Italian Taste" and "The oil contained in this can is composed of choice domestic and olive oils," were misleading since they created the impression that the article, or a substantial proportion of it, consisted of olive oil, whereas it contained very little olive oil; the label statement "Composed of 80% Cottonseed & Peanut Oils 20% Pure Olive Oil" was false and misleading as applied to the article, which contained very little olive oil and little or no peanut oil; and the label statement "Composed of Cottonseed & Peanut Oils Virgin Olive Oil" appearing on the label of a portion of the article was misleading since it failed to reveal the material fact that an inconsequential amount of olive oil was present.

Pace O Mio Dio Brand. Misbranding Section 403 (a), the designs of an olive branch with olives and a peanut bush with peanuts on the main panel of the label, wherein the olives and the peanuts had approximately equal conspicuousness, were misleading since they implied that peanut oil and olive oil were present in approximately equal proportions; and the label statements "A Specialty! Guarantees excellent results in the Italian Kitchen"



and "Grade A Product" were misleading since they implied that the article was olive oil, or contained very substantial proportions of olive oil, which is the traditional oil used in Italian cookery.

La Sposa Brand, Pace O Mio Dio Brand, and portion of Figlia Mia Brand. Misbranding, Section 403 (f), the labels contained representations in a foreign language, Italian, and the common or usual name of each ingredient required by law to appear on the label did not appear conspicuously thereon in the foreign language.

**DISPOSITION:** Antonio Corrao having appeared as claimant in each of the libel actions and the actions having been transferred to the United States District Court for the Southern District of New York, an order was entered by that court on August 18, 1944, ordering that the cases be consolidated. An answer denying that the products were adulterated and misbranded was filed by the claimant on or about September 29, 1944. Thereafter, a motion was filed by the claimant for summary judgment and to vacate the motion by the Government to take his deposition. A motion was filed by the Government to permit it to sample the product under seizure.

On August 8, 1951, the court handed down the following opinion in denial of the motions:

*WEINFELD, District Judge:* "Claimant Antonio Corrao moves for summary judgment dismissing the libel herein, which is a consolidation, pursuant to 21 U. S. C. 334 (b), of eight condemnation proceedings originally instituted in the United States District Courts in Connecticut, Pennsylvania and New Jersey. The charge is that claimant had shipped in interstate commerce certain cans of edible oil which were misbranded and adulterated.

## I

"Claimant was a defendant in the Eastern District of New York in a criminal prosecution brought under an information which contained twenty counts alleging various acts of adulteration and misbranding of food in violation of the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 301 et seq. Upon the trial the Court dismissed counts 1, 3, 5, 7, 9, 11, 13, 14, 16, 18 and 19, and submitted the remaining nine counts to the jury, which returned a verdict of guilty. Defendant's motion to set aside the verdict was granted and a new trial was directed. A second trial was had before another judge without a jury which resulted in a judgment of acquittal on the remaining counts.

"The basis of the claimant's motion for summary judgment is that the final judgment of acquittal in the criminal prosecution is conclusive in his favor in this proceeding. He contends that the information was filed under the identical statute on which this forfeiture proceeding is based, charged the identical offenses covering the identical merchandise now sought to be forfeited and condemned, and that the issues and the parties are the same. The Government, however, disputes that the issues are entirely the same, claiming that additional violations are presently before the Court. While this is not altogether clear, under the view here taken, it is unnecessary to decide the question of identity of issues.

"In support of his motion, claimant relies upon the authority of *Coffey v. United States*, 116 U. S. 436. There, the claimant's property had been seized in a forfeiture proceeding for violation of the Internal Revenue Statutes. He had previously been acquitted on a criminal charge embracing the identical acts. In holding that the earlier judgment was a bar, the Supreme Court stated:

\* \* \* where an issue raised as to the existence of the act or fact denounced has been tried in a criminal proceeding, instituted by the United States, and a judgment of acquittal has been rendered in favor of a particular person, that judgment is conclusive in favor of such person, on the subsequent trial of a suit in rem by the United States, where, as against



him, the existence of the same act or fact is the matter in issue, as a cause for the forfeiture of the property prosecuted in such suit in rem. (p. 443)

"The foregoing ruling in the Coffey case appears by later decisions to have been rigidly contained to the facts therein. It was held to apply only where the second action 'although civil in form, was penal in its nature,' and seeks to 'impose a punishment, or to declare a forfeiture.' *Stone v. United States*, 167 U. S. 178, 187. Thus, a distinction was drawn between proceedings in rem which seek to enforce a penalty or are punitive, and those wherein relief is remedial in nature.

"The distinction was further emphasized in *Helvering v. Mitchell*, 303 U. S. 391. There the defendant had been acquitted of wilfully attempting to evade payment of income tax. Following his acquittal a civil action was brought by the Commissioner of Internal Revenue to recover a 50% assessment for fraudulent evasion of the tax. The defendant resisted this claim on the ground that the judgment of acquittal was conclusive as to any assessment beyond the deficiency. The plea was rejected, the Supreme Court holding that the 50% additional tax was a 'civil administrative sanction' and not a penalty and on this ground distinguished and held inapplicable the Coffey case. The basis of its ruling was principally that the doctrine of *res judicata* did not apply in view of the difference of the burden of proof in the criminal and civil cases—incidentally, a point considered in the Coffey case but which the Supreme Court held on the facts in that case did not invalidate the doctrine of *res judicata*.

"Again, in a later case, *United States ex rel. Marcus v. Hess*, 317 U. S. 537, the Supreme Court renewed its emphasis of the distinction. The majority of the Court classified a fine of \$2,000 and double damages collectible under 31 USC 231-234 as compensatory of damage to the Government and that the proceeding was remedial and imposed a civil sanction. This evoked the comment by Mr. Justice Frankfurter in a concurring opinion that the distinction made in *Helvering v. Mitchell* (p. 400) between 'sanctions that are remedial and those that are punitive' and applied by the majority, was sufficient 'for purposes of explaining away uncritical language' in the Coffey and other earlier cases. 317 U. S. 554.

"The Government contends that the effect of the cited subsequent decision has been to overrule the Coffey case and that it is no longer prevailing law. Indeed, certain lower courts have openly stated their reluctance to follow its doctrine. *United States v. One Dodge Sedan*, 3 Cir. 113 F. 2d 552. Undoubtedly, the Supreme Court has refined and restricted the doctrine of the Coffey case. However, a departure from its holding is unwarranted since the Supreme Court in deciding the Mitchell case not only refrained from overruling the Coffey case but carefully distinguished it by applying the rule of 'civil administrative sanction.' And as recently as 1950, in *United States v. National Association of Real Estate Boards*, 339 U. S. 485, 493, the Court stated that the Coffey case stands for the proposition that 'the facts ascertained in a criminal case as between the United States and the claimant could not be again litigated between them in a civil suit which was punitive in character.' Its authority was relied on in *United States v. One DeSoto Sedan*, 4 Cir., 180 F. 2d 583, affirming 85 F. Supp. 245, where the facts were on all fours with those in the Coffey case.

"Thus, while narrowly contained, the rule of the Coffey case survives. The issue then is whether the sanction here sought to be invoked is punitive or purely civil and remedial in nature.

"The instant proceeding is brought under 21 U. S. C. 334, which provides for the seizure and condemnation of misbranded or adulterated articles of food. The purpose of the Federal Food, Drug, and Cosmetic Act, of which the foregoing section is a part, is the protection of the public health and to prevent deception of the purchasing public.<sup>1</sup>

"The legislation was intended to 'keep adulterated articles out of the channels of interstate commerce' and to insure that contraband articles may be controlled 'not only through personal penalties but through the condemnation of the article if impure.' *Hipolite Egg Co. v. United States*, 220 U. S. 45, 54, 55; *United States v. Dotterweich*, 320 U. S. 277.

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<sup>1</sup> H. Rept. 2139, 75th Cong., 3d sess.



"The Federal Food, Drug, and Cosmetic Act provides two types of remedies indicating a separability of the punitive sanction from the civil remedy. Section 333 of Title 21 U. S. C., entitled 'penalties' prescribes the sanctions of imprisonment and fine for violations of the Act. These constitute the punitive provisions. Entirely separate from this section are the provisions for seizure and condemnation in Section 334 of Title 21. The purpose of the latter section is to quarantine a prescribed article which otherwise would be injurious to the public and thus it is unlike such statutes as 26 U. S. C. 3321, providing for the forfeiture of vehicles used in transportation of non-tax-paid goods or commodities, or the transporting of contraband such as narcotics in 49 U. S. C. 781, 782.<sup>2</sup>

"The latter forfeitures are clearly penal, intended to punish violators of law, whereas the purpose of the seizure and condemnation provisions here considered is quite different. This is emphasized when we consider that an adjudication of condemnation does not necessarily result in the forfeiture of the shipment. Under Section 334 (d) of Title 21 U. S. C. the Court 'may by order direct that such [condemned] articles be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter \* \* \* upon the posting of a bond. This section 'permits the separation of the acceptable from the defective goods' and establishes a distinction 'between condemnation and the confiscation of goods.' *United States v. 43½ Gross*, 65 F. Supp. 534, 536, affirmed *Gellman v. United States*, 8 Cir., 159 F. 2d 881. The fact that the goods may be returned to an owner to be brought into compliance with requirements indicates an absence of purpose to inflict a penalty or to punish the owner but rather to apply a preventative sanction to secure enforcement of the basic purpose of the law. The seizure and forfeiture is an incident in administrative procedure to accomplish that objective—to eliminate the shipment of merchandise in interstate commerce of articles deemed injurious to the public health and to prevent deceit upon the purchasing public.

"The conclusion appears justified that the condemnation provision is a civil administrative sanction within the rule of the *Helvering v. Mitchell* case. Accordingly the acquittal does not bar the present proceeding and the claimant's motion for summary judgment is denied.

## II

"The Government moves for an order permitting it to sample the oils by removing one can marked with each of the four different kinds of labels which appear on the seized goods. The procedure is authorized by 21 U. S. C. 334 (c): 'The court at any time after seizure up to a reasonable time before trial shall by order allow any party \* \* \* to obtain a representative sample of the article seized \* \* \*.'

"This matter has been pending for eight years. The claimant contends that the Government had samples of the seized merchandise which were used upon the two criminal trials—and that such samples are still in its possession. The Government counters that these were obtained by purchase and before the institution of these proceedings and of the criminal prosecution. However, there is no satisfactory explanation by the Government with respect to claimant's assertion that the Government obtained and had representative samples of the goods and each such sample was tested by at least five of its chemists, including three named doctors who testified at the criminal trial, and further that the Government furnished claimant with a portion of each such sample pursuant to Title 21 U. S. C. 334 (c). Thus, it would appear that there is no need for additional samples. Moreover, the charge in this proceeding is misbranding and adulteration and the suggestion that the purpose of the sampling is to determine whether at this time the oils may be classified as food, and if so, are merchantable appears immaterial to the issue in this proceeding. The test is whether the articles were adulterated when shipped

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<sup>2</sup> Although the forfeiture of an automobile used in the transportation of narcotics appears akin to a penalty, nevertheless, the court of appeals of this circuit followed the *Mitchell* case in *United States v. Physic*, 175 F. 2d 338, in holding that an acquittal in a criminal prosecution under 21 U. S. C. 174 for illegally transporting heroin does not bar a proceeding brought under 49 U. S. C. 781 for the forfeiture of the automobile used in transporting the same heroin.



and while in interstate commerce. *United States v. Two Bags of Poppy Seeds*, 6 Cir., 147 F. 2d 123. The samples previously obtained should be sufficient to enable the Government to meet its burden as to that issue in the present proceeding.

"The motion is denied.

### III

"Claimant moves to vacate the notice by the Government to take his deposition, contending that provision therefor does not appear in the Federal Food, Drug, and Cosmetic Act. Section 334 (b) of Title 21 U. S. C. provides that the procedure in condemnation cases '\* \* \* shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury \* \* \*.' The Court of Appeals for this Circuit has construed this language as follows: 'It now appears well established that the Rules of Civil Procedure to apply to condemnation proceedings.' *United States v. 5 Cases, Figlia Mia*, 179 F. 2d 519, 522,<sup>3</sup> citing with approval *United States v. 88 Cases of Bireley's Orange Beverage*, 5 F. R. D. 503, which held that the Federal Rules of Civil Procedure apply to the taking of depositions in a condemnation proceeding. See also *United States v. 20 Cases of Jello*, 77 F. Supp. 231.

"The motion is denied.

"Settle order on notice."

On September 13, 1951, the Government filed a notice of motion (1) for an order striking the claimant's answer because of the claimant's failure to appear for an oral examination, and (2) for a final decree of condemnation and destruction. The claimant having failed to appear for the hearing on the motion, the court, on September 20, 1951, granted the Government's motion and entered a decree of condemnation, with the provision that costs be taxed against the claimant.

On October 29, 1951, upon motion of the claimant and after a hearing thereon, the court revised the decree to eliminate the provision providing for the taxing of costs against the claimant. On November 9, 1951, an order was entered directing that the product be destroyed.

## OLEOMARGARINE

19892. Action to enjoin and restrain the sale and offering for sale of colored oleomargarine or colored margarine without clear identification as required by law. *U. S. v. Sol Abramson*. Consent decree of injunction. (Inj. No. 241.)

COMPLAINT FILED: January 29, 1952, Southern District of New York, against Sol Abramson, residing at Irvington, N. J., and doing business at Bronx, N. Y.

NATURE OF CHARGE: The complaint alleged that the defendant was engaged in the sale and offering for sale, from the premises of the Temp-Tee Butter & Egg Co., Bronx, N. Y., of an article consisting of colored oleomargarine or colored margarine which was invoiced as butter, and that such sale and offering for sale was prohibited by Section 301 (m) in that the article was not labeled as required by Section 407 (b) (3) with (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type of lettering on the label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine.

The complaint further alleged that the defendant, by agreement, had access at all times to the premises of the Temp-Tee Butter & Egg Co. and to the re-

<sup>3</sup> The Ninth Circuit is in accord. *Alberty Food Products v. United States*, 185 F. 2d 321.



frigerators and to the machines for mixing and whipping from bulk such products as butter and oleomargarine; that in August and September 1951, the defendant purchased 4,400 empty, specially made, butter cartons which were delivered to the premises of the Temp-Tee Butter & Egg Co.; that in September 1951, the defendant sold 146 cartons, each containing 66 pounds, of colored oleomargarine or colored margarine which were invoiced by the defendant as "bulk butter"; that 146 of the above-mentioned 4,400 empty cartons were used in such transaction; that the product contained in the 146 cartons was found, upon analysis, to contain a mixture of butter and oleomargarine; that the defendant also sold, in September 1951, 188 cartons, each containing 66 pounds, of colored oleomargarine or colored margarine invoiced by the defendant as "bulk butter"; and that 188 of the above-mentioned 4,400 empty cartons were used for such transaction, and that the product contained in the 188 cartons consisted of a mixture of butter and oleomargarine.

**DISPOSITION:** January 31, 1952. The defendant having consented to the entry of a decree, the court entered a decree perpetually enjoining and restraining the defendant from directly, or indirectly, selling or offering for sale colored oleomargarine or colored margarine without clear identification as such, or which was otherwise in violation of Section 301 (m).

## POULTRY

**19893. Adulteration of dressed poultry. U. S. v. Cavalier Poultry Corp. Plea of guilty. Fine of \$100 on each of first 4 counts of information; defendant placed on probation for 1 year on count 5. Probation subsequently revoked and defendant fined \$1,000 on count 5. (F. D. C. No. 32821. Sample Nos. 24330-L, 24331-L, 38296-L, 49491-L, 49492-L.)**

**INFORMATION FILED:** September 30, 1952, Western District of Virginia, against the Cavalier Poultry Corp., Harrisonburg, Va.

**ALLEGED SHIPMENT:** Between the approximate dates of May 14, 1951, and April 24, 1952, from the State of Virginia into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fecal and crop material on the flesh of the poultry, and of a decomposed substance by reason of the presence of rotten poultry; and, Section 402 (a) (5), the article was in part the product of a diseased animal since the poultry was affected with peritonitis, ascites, arthritis, tumors, ulcers, salpingitis, dermatitis, emaciation, vent gleet, bruises, and blackhead.

**DISPOSITION:** October 20, 1952. A plea of guilty having been entered the court fined the defendant \$100 on each of the first 4 counts of the information, a total of \$400, and placed it on probation for 1 year on count 5.

Evidence subsequently was obtained that the defendant made an interstate shipment of filthy and diseased poultry on November 18, 1952, and, accordingly, proceedings were initiated to revoke the probation. On March 9, 1953, following the defendant's plea of guilty to the charge of violating the terms of probation, the court ordered that the probation be revoked and imposed a fine of \$1,000 against the defendant on count 5 of the original information.



**19894. Adulteration of iced dressed poultry. U. S. v. 592 Pounds \* \* \*.**  
(F. D. C. No. 33557. Sample No. 49518-L.)

**LIBEL FILED:** On or about September 3, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 13, 1952, by Rockland Poultry Co., Inc. from Rockland, Maine.

**PRODUCT:** 592 pounds of iced dressed poultry in 9 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 7, 1952. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**19895. Adulteration of dressed poultry. U. S. v. 4 Crates \* \* \*.** (F. D. C. No. 33880. Sample No. 49523-L.)

**LIBEL FILED:** September 22, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 11, 1952, by Diamond State Poultry Co., Inc., from Lewes, Del.

**PRODUCT:** 4 crates, each containing approximately 75 pounds, of dressed poultry at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of decomposed birds, and the product was otherwise unfit for food by reason of the presence of excessively bruised birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 30, 1952. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**19896. Adulteration of dressed poultry. U. S. v. 50 Pounds \* \* \*.** (F. D. C. No. 33872. Sample No. 49520-L.)

**LIBEL FILED:** On or about September 24, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 4, 1952, by the Hillcrest Poultry Co., from Camden, Maine.

**PRODUCT:** 50 pounds of dressed poultry at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 29, 1952. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**SPICES, FLAVORS, AND SEASONING MATERIALS**

**19897. Adulteration of thyme. U. S. v. 47 Bags \* \* \*. (F. D. C. No. 33538. Sample No. 38378-L.)**

**LIBEL FILED:** August 26, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 14, 1945. The article was imported from a foreign country.

**PRODUCT:** 47 bags containing approximately 5,156 pounds of thyme at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 25, 1952. Default decree of condemnation and destruction.

**19898. Adulteration and misbranding of Pepperette. U. S. v. 47 Tins \* \* \*. (F. D. C. No. 33689. Sample No. 33815-L.)**

**LIBEL FILED:** September 11, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about July 10 and August 8, 1952, by Archibald & Kendall, Inc., from New York, N. Y.

**PRODUCT:** 47 5-pound tins of Pepperette at Detroit, Mich. Examination disclosed that the product consisted of approximately 50 percent black pepper, cornmeal, soya meal, and wheat.

**LABEL, IN PART:** "Pepperette Pure Black Pepper—Cereal Extended."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), cornmeal, soya meal, and wheat had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (a), the label designation "Pepperette Pure Black Pepper—Cereal Extended" was false and misleading.

**DISPOSITION:** December 10, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

**19899. Adulteration of mustard bran. U. S. v. 238 Bags, etc. (F. D. C. No. 33544. Sample Nos. 2325-L, 2326-L.)**

**LIBEL FILED:** August 25, 1952, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about April 25 and June 20, 1951, from England.

**PRODUCT:** 538 100-pound bags of mustard bran at Savannah, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 19, 1952. Default decree of condemnation and destruction.



**19900. Misbranding of mayonnaise. U. S. v. 6 Cases, etc. (F. D. C. No. 33509. Sample Nos. 2618-L, 2619-L.)**

**LIBEL FILED:** On or about August 6, 1952, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about July 17, 1952, by the C. F. Sauer Co., from Greenville, S. C.

**PRODUCT:** 6 cases, each containing 12 jars, and 13 cases, each containing 24 jars, of mayonnaise at Atlanta, Ga.

**LABEL, IN PART:** "Duke's Home Made Mayonnaise \* \* \* Contents One Quart [or "Eight Fluid Ounces"]."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than the labeled amounts.)

**DISPOSITION:** September 9, 1952. Default decree of condemnation. The court ordered that the product be delivered for the use of a Federal institution.

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### PRODUCTS

	N. J. No.		N. J. No.
Bran, mustard_____	19899	Mix, bakery_____	19859
Butter _____	19864-19868	Mustard bran_____	19899
Cereals and cereal prod- ucts_____	19851-19863	Nuts_____	19889, 19890
Cherries, canned_____	19874, 19875	Oats, rolled_____	19860
Chickens. <i>See</i> Poultry.		Oils and fats_____	<sup>1</sup> 19891
Corumeal_____	19851, 19852	Okra and tomatoes, canned_____	19885
Crabmeat _____	19871	Oleomargine_____	<sup>2</sup> 19892
Dairy products_____	19864-19868	Oysters _____	19872, 19873
Fats. <i>See</i> Oils and fats.		Peaches, canned_____	19876-19878
Fish and shellfish_____	19869-19873	Peas, canned_____	19882
Flavors. <i>See</i> Spices, flavors, and seasoning materials.		field, with snaps, canned_____	19881
Flour _____	19853-19859	green, frozen_____	19883
Fruits and vegetables___	<sup>1</sup> 19874-19888	Pepperette _____	19898
fruit, canned_____	19874-19878	Potatoes, dehydrated_____	19884
miscellaneous fruit products_____	<sup>1</sup> 19879, 19880	Poultry _____	19893-19896
tomatoes and tomato products_____	19886-19888	Prune juice_____	19880
vegetables_____	19881-19885	Rice _____	19861, 19862
Grapefruit and pineapple juice, blended _____	<sup>1</sup> 19879	Rye flour_____	19858
Grits, soy_____	19863	Sardines, canned_____	19870
Herring, kippered, canned_____	19869	Shellfish. <i>See</i> Fish and shellfish.	
Kipperred herring, canned_____	19869	Soy grits_____	19863
Mayonnaise _____	19900	Spices, flavors, and sea- soning materials_____	19897-19900
		Thyme _____	19897
		Tomato(es), canned_____	19886
		juice_____	19887
		paste_____	19888

<sup>1</sup> (19879, 19891) Seizure contested. Contains opinion of the court.

<sup>2</sup> (19892) Injunction issued.

	N. J. No.		N. J. No.
Turkeys. <i>See</i> Poultry.		Walnut(s), kernels, black_____	19890
Vegetables. <i>See</i> Fruits and vegetables.		unshelled_____	19889

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
Abramson, Sol:		Jones Bros. Canning Co.:	
colored oleomargarine_____	<sup>2</sup> 19892	canned peaches_____	19876
Alamo Products Co.:		June Dairy Products Co., Inc.:	
tomato juice_____	19887	butter_____	19864
American Dairies, Inc.:		Langrall, J., & Bro., Inc.:	
butter_____	19867	canned peas_____	19882
American Fig & Date Co.:		Morris, D. L., Milling Co., Inc.:	
prune juice_____	19880	cornmeal_____	19852
Andre French Ice Cream Co., Inc.:		Moyer Bros:	
butter_____	19865	canned peaches_____	19877
Archibald & Kendall, Inc.:		Noroian, George, Co.:	
Pepperette_____	19898	canned peaches_____	19878
Black Hills Albright Grocery Co.:		Pascagoula Crab Co.:	
unshelled walnuts _____	19889	crabmeat_____	19871
Bruce's Juices, Inc.:		Pillsbury-Ballard Co.:	
blended grapefruit and pine-apple juice_____	<sup>1</sup> 19879	flour _____	19855
Cavalier Poultry Corp.:		Ploeger-Abbott Co.:	
dressed poultry_____	19893	canned field peas with cut snaps_____	19881
Chester Packing Co.:		Powley, George O., & Co.:	
canned tomatoes_____	19886	oysters_____	19872
Corrao, Antonio:		Red Owl Store No. 898:	
table and cooking oils_____	<sup>1</sup> 19891	flour _____	19856
Diamond State Poultry Co., Inc.:		Rockland Poultry Co., Inc.:	
dressed poultry _____	19895	iced dressed poultry_____	19894
Dunnet, C. W. & Co.:		San Xavier Fish Packing Co.:	
butter_____	19868	canned sardines_____	19870
Field Packing Co.:		Sauer, C. F., Co.:	
butter_____	19866	mayonnaise_____	19900
Flotill Products, Inc.:		Seufert Bros. Co.:	
tomato paste_____	19888	canned cherries_____	19874
Funsten Co.:		Slaughter, A. P.:	
canned sardines_____	19870	black walnut kernels_____	19890
Hershey Packing Co.:		Star Creamery Association:	
frozen green peas_____	19883	butter_____	19868
Hillcrest Poultry Co.:		Stonehill Creameries Co.:	
dressed poultry_____	19896	butter_____	19864
Humphreys Mills Co.:		Temp-Tee Butter & Egg Co. <i>See</i> Abramson, Sol.	
cornmeal _____	19851	Universal Salad Oil Co.:	
Intermountain Food Co., Inc.:		table and cooking oils_____	<sup>1</sup> 19891
canned cherries_____	19875	Webb, E. I., & Co.:	
		oysters_____	19873

<sup>1</sup> (19879, 19891) Seizure contested. Contains opinion of the court.<sup>2</sup> (19892) Injunction issued.



# U. S. Department of Health, Education, and Welfare

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

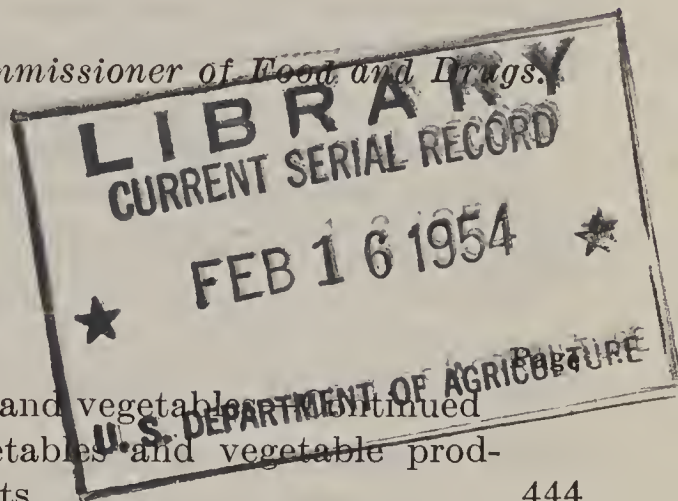
19901-19950

#### FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 25, 1954.*



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**CEREALS AND CEREAL PRODUCTS****FLOUR**

**19901. Adulteration of flour. U. S. v. 543 Bags \* \* \*. (F. D. C. No. 33693. Sample Nos. 65555-L, 65560-L.)**

**LIBEL FILED:** On or about September 24, 1952, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about May 17 and 29, 1952, from Wabasha, Minn.

**PRODUCT:** 543 50-pound bags of flour at Madison, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 7, 1952. The Dane County Cooperative Farm Supply Co., Madison, Wis., claimant, having admitted that the product was subject to condemnation, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured under the supervision of the Food and Drug Administration.

**19902. Adulteration of flour. U. S. v. 86 Bags \* \* \*. (F. D. C. No. 33975. Sample No. 8200-L.)**

**LIBEL FILED:** September 29, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 23, 1952, from Grand Forks, N. Dak.

**PRODUCT:** 86 100-pound bags of flour at Pittsburgh, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect webbing. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 17, 1952. The Charles Koch Co., Pittsburgh, Pa., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

**19903. Adulteration of flour. U. S. v. 164 Bags, etc. (F. D. C. No. 33990. Sample Nos. 62224-L, 62225-L.)**

**LIBEL FILED:** October 10, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about March 24, April 7, and May 13 and 28, 1952, from Fremont and Omaha, Nebr.

**PRODUCT:** 277 25-pound bags of flour at Jackson, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1952. Default decree of condemnation and destruction

**19904. Adulteration of flour. U. S. v. 26 Sacks, etc. (F. D. C. No. 33926. Sample Nos. 62135-L to 62139-L, incl.)**

**LIBEL FILED:** October 17, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of January 3 and July 5, 1952, from Wichita Falls, Tex., and Abilene and Salina, Kans.



**PRODUCT:** 161 25-pound sacks and 19 50-pound sacks of flour at Lexington Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1952. Default decree of condemnation and destruction.

**19905. Adulteration of flour and soy grits. U. S. v. 284 Bags, etc. (F. D. C. No. 33940. Sample Nos. 2350-L, 2351-L, 2437-L, 2438-L.)**

**LIBEL FILED:** October 17, 1952, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about April 7, June 27, and August 9, 1952, from Kansas City, Mo., Minneapolis, Minn., Davenport, Iowa, and Decatur, Ill.

**PRODUCT:** 808 100-pound bags of flour and 151 100-pound bags of soy grits at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects and insect parts. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 25, 1952. The Nelson Brokerage Co., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the articles be released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The articles were converted into animal feed.

### MACARONI AND NOODLE PRODUCTS

**19906. Adulteration of egg noodles, egg vermicelli, and egg spaghetti. U. S. v. William J. Freschi and Albert J. Ravarino. Pleas of nolo contendere. Each defendant fined \$200, plus costs. (F. D. C. No. 33813. Sample Nos. 13935-L, 13936-L, 33886-L, 33887-L.)**

**INFORMATION FILED:** October 27, 1952, Eastern District of Missouri, against William J. Freschi and Albert J. Ravarino, vice president and president, respectively, of Ravarino & Freschi, Inc., St. Louis, Mo.

**ALLEGED SHIPMENT:** Between the approximate dates of January 27 and May 13, 1952, from the State of Missouri into the States of Illinois and Colorado.

**LABEL, IN PART:** (Packages) "R-F Pure Egg Noodles Contains 5½% Egg Solids," "R-F Egg Vermicelli Pure Egg Products Guaranteed to Contain 5½% Egg Yolk Solids," and "R-F Egg Spaghetti Pure Egg Products Guaranteed to Contain 5½% Egg Yolk Solids."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, egg solids, in the case of the noodles, and egg yolk, in the case of the egg vermicelli and egg spaghetti, had been in part omitted from the products.

**DISPOSITION:** November 7, 1952. Pleas of nolo contendere having been entered, the court imposed a fine of \$200, plus costs, against each of the defendants.

### MISCELLANEOUS CEREALS\*

**19907. Adulteration of rice. U. S. v. 44 Bags \* \* \*. (F. D. C. No. 34021. Sample No. 36284-L.)**

**LIBEL FILED:** October 15, 1952, Northern District of Ohio.

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\*See also No. 19905.

**ALLEGED SHIPMENT:** On or about March 5, 1950, from Stuttgart, Ark.

**PRODUCT:** 44 100-pound bags of rice at Youngstown, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 18, 1952. Wonder Rice Mills, Inc., Houston, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Food and Drug Administration. The product subsequently was denatured and disposed of for use as animal feed.

**19908. Adulteration of wheat. U. S. v. 112,000 Pounds, etc. (F. D. C. No. 34003. Sample Nos. 20073-L, 20074-L.)**

**LIBEL FILED:** October 10, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 22 and 23, 1952, by John Kingdon Elevator, from Hitchcock, S. Dak.

**PRODUCT:** 212,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, insects, and insect parts.

**DISPOSITION:** October 17, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed into animal feed, under the supervision of the Food and Drug Administration.

## DAIRY PRODUCTS

### BUTTER

**19909. Adulteration of butter. U. S. v. 7 Cases, etc. (F. D. C. No. 33962. Sample No. 16495-L.)**

**LIBEL FILED:** On or about September 10, 1952, District of Kansas.

**ALLEGED SHIPMENT:** On or about August 27, 1952, by the Sni-A-Bar Creamery Co., from Independence, Mo.

**PRODUCT:** 7 cases, each containing 6 1-pound packages, and 6 cases, each containing 32 1-pound packages, of butter at Kansas City, Kans. Examination showed that the product contained insect parts and rodent hair fragments.

**LABEL, IN PART:** "Armour Cloverbloom Butter \* \* \* Armour Creameries Distributors General Offices Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** November 19, 1952. Default decree of condemnation and destruction.

**19910. Adulteration of butter. U. S. v. 11 Cubes (704 pounds) \* \* \*. (F. D. C. No. 33965. Sample No. 54827-L.)**

**LIBEL FILED:** September 8, 1952, Northern District of Illinois; amended libel filed on or about September 24, 1952.



**ALLEGED SHIPMENT:** On or about August 25, 1952, by Frank Pilley & Sons, Inc., from Sioux City, Iowa.

**PRODUCT:** 11 64-pound cubes of butter at Chicago, Ill.

**LABEL, IN PART:** "Hanfords Quality Unsalted Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter; and, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance because of the presence of insect fragments, setae, and moth scales, and because it was prepared from filthy cream.

**DISPOSITION:** December 2, 1952. Default decree of condemnation and destruction.

## FISH AND SHELLFISH

**19911. Adulteration of canned salmon. U. S. v. 1,739 Cases \* \* \*. (F. D. C. No. 32647. Sample Nos. 28848-L to 28850-L, incl.)**

**LIBEL FILED:** February 13, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about August 24, 1951, by S. Einstoss, from Ketchikan, Alaska.

**PRODUCT:** 1,739 cases, each containing 48 unlabeled No. 1 tall cans, of salmon at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** April 18, 1952. The Oceanic Sales Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 76 cases and 27 cans were found unfit and were destroyed.

**19912. Adulteration of frozen tullibees. U. S. v. 21 Boxes \* \* \*. (F. D. C. No. 33978. Sample No. 33820-L.)**

**LIBEL FILED:** September 30, 1952, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about April 10, 1952, from Winnipeg, Canada, by the J. Kozloff Fish Distributors.

**PRODUCT:** 21 boxes, each containing approximately 120 pounds, of frozen tullibees at Grand Haven, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** October 27, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into mink feed, under the supervision of the Federal Security Agency.

**19913. Adulteration of oysters. U. S. v. 1,096 Cans \* \* \*. (F. D. C. No. 34035. Sample No. 4126-L.)**

**LIBEL FILED:** October 20, 1952, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about October 15, 1952, by Kilmarnock Packing Co., Inc., from Kilmarnock, Va.

PRODUCT: 1,096 pint cans of oysters at Indianapolis, Ind.

LABEL, IN PART: "Wynn's DeLuxe Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: October 22, 1952. Default decree of forfeiture. The court ordered that the product be delivered to charitable institutions.

**19914. Adulteration of oysters. U. S. v. 880 Cans \* \* \*. (F. D. C. No. 34032. Sample Nos. 57346-L, 57347-L.)**

LIBEL FILED: October 16, 1952, Northern District of Alabama.

ALLEGED SHIPMENT: On or about October 14, 1952, by Seacoast Oyster Co., Inc., from Baltimore, Md.

PRODUCT: 880 pint cans of oysters at Birmingham, Ala.

LABEL, IN PART: "Pride of Chesapeake Bay Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: November 18, 1952. No claimant having appeared and the product having deteriorated so that it was unfit for human consumption, judgment of condemnation and destruction was entered.

**19915. Adulteration of oysters. U. S. v. 464 Cans \* \* \* (and one other seizure action). (F. D. C. Nos. 33985, 34015. Sample Nos. 39240-L, 57238-L.)**

LIBELS FILED: October 3 and 10, 1952, Southern District of Ohio.

ALLEGED SHIPMENT: On or about September 29 and October 8, 1952, by Seacoast Oyster Co., Inc., from Baltimore, Md.

PRODUCT: 464 pint cans and 144 pint cans of oysters at Xenia and Ironton, Ohio.

LABEL, IN PART: "Oysters Standards \* \* \* Pride of Chesapeake Bay."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: October 15, 1952. Default decrees of condemnation. The court ordered that the 464-can lot be destroyed since it appeared that deterioration had set in and that the 144-can lot be delivered to a Federal institution, for consumption by its inmates.

**19916. Adulteration of oysters. U. S. v. 784 Cans \* \* \*. (F. D. C. No. 34018. Sample No. 39241-L.)**

LIBEL FILED: On or about October 16, 1952, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 8, 1952, by the Union Fish Co., from Baltimore, Md.

PRODUCT: 784 pint cans of oysters at Zanesville, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.



**DISPOSITION:** October 21, 1952. Since it appeared to the court that the product was of a perishable nature and could not be held without danger of spoilage, the court ordered that the product be delivered forthwith to a Federal institution, for human consumption.

**19917. Adulteration and misbranding of oysters. U. S. v. 616 Cans \* \* \*.**  
(F. D. C. No. 34004. Sample No. 57252-L.)

**LIBEL FILED:** October 9, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by Charles Neubert & Co., from Baltimore, Md.

**PRODUCT:** 616 pint cans of oysters at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since the oysters were not thoroughly drained.

**DISPOSITION:** October 15, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for consumption by the inmates.

**19918. Adulteration of oysters. U. S. v. 272 Cans \* \* \*.** (F. D. C. No. 34017. Sample No. 39419-L.)

**LIBEL FILED:** October 10, 1952, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 8, 1952, by Charles Neubert & Co., from Baltimore, Md.

**PRODUCT:** 272 pint cans of oysters at Ottumwa, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** October 13, 1952. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**19919. Adulteration of oysters. U. S. v. 464 Cans \* \* \*.** (F. D. C. No. 34044. Sample No. 4740-L.)

**LIBEL FILED:** October 24, 1952, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about October 21, 1952, by I. L. Leonard & Co., from Cambridge, Md.

**PRODUCT:** 464 pint cans of oysters at Terre Haute, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 25, 1952. Default decree of forfeiture and destruction.

**19920. Adulteration and misbranding of oysters. U. S. v. 328 Cans \* \* \*.**  
(F. D. C. No. 34033. Sample No. 57262-L.)

**LIBEL FILED:** October 17, 1952, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about October 14, 1952, by George O. Powley & Co., from Wingate, Md.

**PRODUCT:** 328 pint cans of oysters at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

**DISPOSITION:** November 14, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization for its use and not for sale.

**19921. Adulteration of oysters. U. S. v. 304 Cans \* \* \*. (F. D. C. No. 34034. Sample No. 57349-L.)**

**LIBEL FILED:** October 17, 1952, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 14, 1952, by the Tilghman Packing Co., from Tilghman, Md.

**PRODUCT:** 304 pint cans of oysters at Burlington, Iowa.

**LABEL, IN PART:** "Tilghman Brand Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 18, 1952. Default decree of condemnation and destruction.

**19922. Adulteration of oysters. U. S. v. 288 Cans \* \* \*. (F. D. C. No. 33971. Sample Nos. 57333-L, 57334-L.)**

**LIBEL FILED:** September 29, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about September 23, 1952, by the Oxford Packing Co., from Oxford, Md.

**PRODUCT:** 288 pint cans of oysters at Charleston, W. Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** October 23, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**19923. Adulteration of oysters. U. S. v. 284 Cans \* \* \*. (F. D. C. No. 33944. Sample No. 3648-L.)**

**LIBEL FILED:** October 23, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 14, 1952, by White & Nelson, from Cambridge, Md.

**PRODUCT:** 284 pint cans of oysters at Chicago, Ill.

**LABEL, IN PART:** "Cap't John's Fresh Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added



to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 12, 1952. No claimant having appeared and it appearing to the court that the product had become so decomposed as to constitute a health menace, judgment was entered ordering that the product be destroyed.

**19924. Adulteration and misbranding of oysters. U. S. v. 224 Cans \* \* \*.**  
(F. D. C. No. 33976. Sample No. 57332-L.)

**LIBEL FILED:** September 29, 1952, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 23, 1952, by the Leib Packing Co., from Baltimore, Md.

**PRODUCT:** 224 pint cans of oysters at Hannibal, Mo.

**LABEL, IN PART:** "Oysters Standards Contents One Pint Sun Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since it was not thoroughly drained and the total time that the product was in contact with water after leaving the shucker was more than 30 minutes.

**DISPOSITION:** November 5, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for consumption by the inmates.

**19925. Adulteration of oysters. U. S. v. 59 Cans, etc. (F. D. C. No. 33986.**  
Sample Nos. 57247-L, 57248-L.)

**LIBEL FILED:** October 3, 1952, Eastern District of Tennessee.

**ALLEGED SHIPMENT:** On or about September 29, 1952, by J. H. White Co., from Baltimore, Md.

**PRODUCT:** 168 pint cans of oysters at Chattanooga, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 9, 1952. Default decree of condemnation and destruction.

**19926. Adulteration of oysters. U. S. v. 128 Cans \* \* \*. (F. D. C. No. 34030.**  
Sample No. 55250-L.)

**LIBEL FILED:** October 16, 1952, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 13, 1952, by James F. Kambarn, from Chincoteague, Va.

**PRODUCT:** 128 pint cans of oysters at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 13, 1952. Default decree of condemnation and destruction.

**19927. Adulteration of oysters. U. S. v. 84 Cans \* \* \*. (F. D. C. No. 34029. Sample No. 4123-L.)**

**LIBEL FILED:** October 16, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 13, 1952, by the Crisfield Supply Co., from Crisfield, Md.

**PRODUCT:** 84 pint cans of oysters at Du Bois, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 21, 1952. Default decree of condemnation and destruction.

**19928. Misbranding of oysters. U. S. v. 224 Cans \* \* \*. (F. D. C. No. 34000. Sample No. 39413-L.)**

**LIBEL FILED:** October 9, 1952, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by the McNaney Oyster Co., from Baltimore, Md.

**PRODUCT:** 224 cans of oysters at Vincennes, Ind.

**LABEL, IN PART:** "Oysters Standards Contents One Pint McNaney's Superior Raw Oysters."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short volume.)

**DISPOSITION:** October 16, 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be repacked and brought into compliance with the law, under the supervision of the Food and Drug Administration.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**19929. Misbranding of canned cherries. U. S. v. 2,244 Cases \* \* \*. (F. D. C. No. 34006. Sample No. 42392-L.)**

**LIBEL FILED:** October 10, 1952, Northern District of California.

**ALLEGED SHIPMENT:** During or about July and August, 1952, by Hunt Foods, Inc., from Salem, Oreg.

**PRODUCT:** 2,244 cases, each containing 48 15½-ounce cans, of cherries at Hayward, Calif.

**LABEL, IN PART:** "Hunt's Royal Anne Light Sweet Cherries In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned sweet cherries, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the optional packing medium present since the label bore the statement "In Heavy Syrup" and the article was packed in light sirup.

**DISPOSITION:** December 3, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court



ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

**19930. Misbranding of canned peaches. U. S. v. 831 Cases \* \* \*. (F. D. C. No. 33974. Sample No. 35969-L.)**

**LIBEL FILED:** September 30, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 20, 1952, by Carolina Canning Co., Inc., from Inman, S. C.

**PRODUCT:** 831 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Toledo, Ohio.

**LABEL, IN PART:** "Carolina Gold Brand \* \* \* Packed In Heavy Syrup Halved Yellow Freestone Peaches."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the definition and standard, the name of the optional packing medium present since the label bore the statement "In Heavy Syrup" and the article was packed in light sirup.

**DISPOSITION:** October 28, 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**19931. Misbranding of canned peaches. U. S. v. 250 Cases \* \* \*. (F. D. C. No. 33951. Sample No. 1178-L.)**

**LIBEL FILED:** October 24, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 24, 1952, by the Cherokee Products Co., from Haddock, Ga.

**PRODUCT:** 250 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Tampa, Fla.

**LABEL, IN PART:** "O'sage Brand \* \* \* Yellow Freestone Peaches Halves In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peaches by reason of the presence of peach halves smaller in size than specified in the standard and since the weight of the largest peach half in the container was more than twice the weight of the smallest unit therein, and its label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** December 22, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19932. Misbranding of canned peaches. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 33941. Sample No. 2433-L.)**

**LIBEL FILED:** October 20, 1952, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about August 21, 1952, by the Bateman Canning Co., from Macon, Ga.

**PRODUCT:** 98 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Lancaster, S. C.

**LABEL, IN PART:** "Dixiana Brand Mixed Pieces of Irregular Sizes and Shapes Yellow Freestone Peaches In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the definition and standard, the name of the optional packing medium present since the label bore the statement "In Heavy Syrup" and the article was packed in light sirup.

**DISPOSITION:** December 31, 1952. The Bateman Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

### FRESH FRUIT

**19933. Adulteration of blueberries. U. S. v. 25 Crates, etc. (F. D. C. No. 33970. Sample Nos. 54053-L, 54054-L.)**

**LIBEL FILED:** On or about September 3, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 6, 1952, by J. H. Welker, from Michigan City, Ind.

**PRODUCT:** 56 crates, each containing 12 pint baskets, of blueberries at Chicago, Ill. Examination showed that the product was infested with maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 10, 1952. La Mantia Bros. Arrigo, Inc., Chicago, Ill., having appeared as claimant and it appearing to the court upon representations made by Government counsel in open court that the product was so decomposed and infested as to constitute a health menace, judgment was entered ordering that the product be destroyed.

### VEGETABLES AND VEGETABLE PRODUCTS\*

**19934. Misbranding of canned green beans. U. S. v. 600 Cases \* \* \*. (F. D. C. No. 33892. Sample No. 4349-L.)**

**LIBEL FILED:** September 25, 1952, District of Maine.

**ALLEGED SHIPMENT:** On or about September 3, 1952, by the H. J. McGrath Co., from Baltimore, Md.

**PRODUCT:** 600 cases, each containing 24 15½-ounce cans, of green beans at Portland, Maine.

**LABEL, IN PART:** "Sun-Spun Brand French Style Sliced Green Beans."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned sliced green beans since the deseeded pods of the product contained more than 0.15 percent by weight of fibrous material and its label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** December 1, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

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\*See also No. 19943.



**19935. Adulteration of canned pork and beans. U. S. v. 173 Cases \* \* \*.**  
(F. D. C. No. 33692. Sample No. 4342-L.)

**LIBEL FILED:** September 12, 1952, District of Vermont.

**ALLEGED SHIPMENT:** On or about August 14, 1952, by the H. J. McGrath Co., from Baltimore, Md.

**PRODUCT:** 173 cases, each containing 24 1-pound, 14-ounce cans, of pork and beans at Burlington, Vt.

**LABEL, IN PART:** (Can) "Much-More Brand \* \* \* Pork and Beans With Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** On November 18, 1952, the court ordered that each case of the product be opened and examined to determine the code marks on the cases and the condition of the contents. On February 10, 1953, the court ordered that the product under seizure be released to the custody of the claimant, the H. J. McGrath Co., or to the Burlington Grocery Co., the agent for the claimant, for the purpose of segregation of the unfit portion of the product from the fit portion, under the supervision of the Food and Drug Administration. 29 cases and 14 cans of the product having been found unfit, judgment of forfeiture was entered against the unfit portion on March 25, 1953, and the court ordered that this portion be destroyed.

**19936. Adulteration and misbranding of canned corn. U. S. v. 163 Cases \* \* \*.**  
(F. D. C. No. 34038. Sample No. 4346-L.)

**LIBEL FILED:** October 21, 1952, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about August 27, 1952, by the Associated Cannery Corp., from Baltimore, Md.

**PRODUCT:** 163 cases, each containing 6 cans, of corn at Tuscaloosa, Ala.

**LABEL, IN PART:** "Queen Anne Brand Cream Style Golden Sweet Corn Contents 1 Lb. 4 Oz.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents 1 Lb. 4 Oz." was inaccurate. (Examination showed that each can contained more than 7 pounds of the product.)

**DISPOSITION:** November 25, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

**19937. Misbranding of canned peas. U. S. v. 100 Cases \* \* \*.** (F. D. C. No. 34012. Sample No. 3747-L.)

**LIBEL FILED:** October 10, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 19, 1952, by Lord-Mott Co., Inc., from Baltimore, Md.

**PRODUCT:** 100 cases, each containing 24 1-pound, 4-ounce cans, of peas at Cincinnati, Ohio.

**LABEL, IN PART:** "Old Reliable Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peas because of excessively ruptured peas and the alcohol-insoluble solids was more than 23.5 percent, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** October 30, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

**19938. Adulteration of potatoes. U. S. v. 100 Bags \* \* \*. (F. D. C. No. 33685. Sample No. 55234-L.)**

**LIBEL FILED:** September 10, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 19, 1952, by Reed & Perrine, Inc., from Tennent, N. J.

**PRODUCT:** 100 100-pound bags of potatoes at Warren, Pa.

**LABEL, IN PART:** "New Jersey Potatoes Mount & Pullen Hightstown, N. J."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its abnormal flavor, rendering it unpalatable.

**DISPOSITION:** November 25, 1952. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as hog feed.

#### **TOMATOES AND TOMATO PRODUCTS**

**19939. Adulteration of canned tomatoes. U. S. v. 346 Cases \* \* \*. (F. D. C. No. 34013. Sample No. 61113-L.)**

**LIBEL FILED:** On or about October 14, 1952, Northern District of Oklahoma.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by the Rush Canning Co., from Exeter, Mo.

**PRODUCT:** 346 cases, each containing 24 1-pound cans, of tomatoes at Tulsa, Okla.

**LABEL, IN PART:** "Jimjo Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 3, 1952. Default decree of condemnation and destruction.

**19940. Misbranding of canned tomatoes. U. S. v. 1,521 Cases \* \* \*. (F. D. C. No. 33938. Sample No. 4732-L.)**

**LIBEL FILED:** On or about October 16, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about September 22, 1952, by the Torsch Canning Co., from Milford, Del.

**PRODUCT:** 1,521 cases, each containing 24 1-pound cans, of tomatoes at Landover, Md.

**LABEL, IN PART:** "Gardenside Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designation "Tomatoes" was false and misleading as applied to cans containing string beans and lima beans; and, Section 403 (b), string beans and lima beans were offered for sale under the name of another food, tomatoes. Examination disclosed that some of the cans contained tomatoes, some cans string beans, and some cans lima beans.



**DISPOSITION:** December 5, 1952. The shipper, claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19941. Misbranding of canned tomatoes. U. S. v. 382 Cases \* \* \*. (F. D. C. No. 33883. Sample No. 46819-L.)**

**LIBEL FILED:** September 23, 1952, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about August 8, 1952, by George H. Robinson, from Cambridge and Springdale, Md.

**PRODUCT:** 382 cases, each containing 24 cans, of tomatoes at Birmingham, Ala.

**LABEL, IN PART:** "Pine Cone Brand Tomatoes Contents 1 Lb. 3 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans were short weight); Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container and the label failed to bear a statement that the product fell below the standard; and, Section 403 (h) (2), the product fell below the standard of fill of container for canned tomatoes since the fill of the container of the article was less than 90 percent of the total capacity of the container and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** October 29, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**19942. Misbranding of canned tomatoes. U. S. v. 367 Cases \* \* \*. (F. D. C. No. 33884. Sample No. 49174-L.)**

**LIBEL FILED:** September 24, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about August 5, 1952, by Williamsburg Canning Co., Inc., from Williamsburg, Md.

**PRODUCT:** 367 cases, each containing 24 1-pound cans, of tomatoes at Brooklyn, N. Y.

**LABEL, IN PART:** "Williamsburg Brand \* \* \* Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** November 25, 1952. Clifford C. Faulkner of the Williamsburg Canning Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19943. Adulteration of tomato catsup and canned Crowder peas. U. S. v. Delta Canning Co., Inc., and John E. Frost. Pleas of nolo contendere. Fine of \$500 against corporation and \$200 against individual. (F. D. C. No. 33711. Sample Nos. 13302-L, 34749-L.)**

**INFORMATION FILED:** December 1, 1952, Southern District of Texas, against the Delta Canning Co., Inc., Raymondville, Tex., and John E. Frost, president of the corporation.

**ALLEGED SHIPMENT:** On or about July 10, 1951, and May 12, 1952, from the State of Texas into the States of New Mexico and Arkansas.

**LABEL, IN PART:** "Jocko Brand Tomato Catsup" and "Frost Brand Fresh Shelled Frost Brown Crowder Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the tomato catsup consisted in part of a decomposed substance by reason of the presence of decomposed tomato material, and the canned Crowder peas consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

**DISPOSITION:** December 1, 1952. Pleas of nolo contendere having been entered, the court fined the corporation \$500 and the individual \$200.

## OILS AND FATS

**19944. Adulteration and misbranding of table and cooking oil. U. S. v. 27 Cases \* \* \*. Consent decree of condemnation; product ordered released under bond. Motion by Government to forfeit bond overruled. (F. D. C. No. 33152. Sample No. 36222-L.)**

**LIBEL FILED:** June 2, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about April 21, 1952, by the Columbus Packing Co., from Chicago, Ill.

**PRODUCT:** 27 cases, each containing 6 1-gallon cans, of table and cooking oil at Cleveland, Ohio.

**LABEL, IN PART:** "Columbus Brand \* \* \* An excellent Blend of 80% Corn Oil and 20% Pure Imported Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in part omitted; and, Section 402 (b) (4), a vegetable oil containing less than 20 percent olive oil had been substituted for a blend of 80 percent corn oil and 20 percent olive oil.

Misbranding, Section 403 (a), the label statement "20% Pure \* \* \* Olive Oil" was false and misleading.

**DISPOSITION:** August 18, 1952. The Central Wholesale Grocery Co., Cleveland, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

On March 19, 1953, the Government filed a motion for the entry of an order forfeiting the bond on the ground that the claimant had not complied with the provisions of the decree in that it had disposed of a portion of the product without relabeling it. On June 19, 1953, the court overruled the motion on the ground that there was nothing to indicate that the court's order for the relabeling of the product had been wilfully violated.

**19945. Adulteration and misbranding of chicken fat. U. S. v. 8 Cases \* \* \*. (F. D. C. No. 34040. Sample No. 35856-L.)**

**LIBEL FILED:** October 22, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 18, 1952, by the Midwest Food Distributing Co., from Chicago, Ill.

**PRODUCT:** 8 cases, each containing 12 1-pound jars, of chicken fat at Cincinnati, Ohio.



**LABEL, IN PART:** "Carmel Brand Kosher Chicken Fat (Schmaltz) with added onions and vegetable shortening."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, chicken fat, had been in part omitted.

Misbranding, Section 403 (a), the label designation "Chicken Fat (Schmaltz)" was false and misleading since the product contained only 23 percent chicken fat.

**DISPOSITION:** December 17, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use and consumption by the inmates.

## POULTRY

**19946. Adulteration of dressed poultry. U. S. v. 420 Pounds \* \* \*. (F. D. C. No. 33881. Sample No. 49521-L.)**

**LIBEL FILED:** September 22, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 6, 7, and 8, 1952, by the B & B Poultry Co., from Norma, N. J.

**PRODUCT:** 420 pounds of dressed poultry in 6 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 31, 1952. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**19947. Adulteration of canned fricassee of chicken wings. U. S. v. 228 Cases \* \* \*. (F. D. C. No. 33973. Sample No. 35970-L.)**

**LIBEL FILED:** September 30, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about August 13, 1952, by the Banquet Canning Co., from Marshall, Mo.

**PRODUCT:** 228 cases, each containing 12 3-pound, 2-ounce cans, of fricassee of chicken wings at Toledo, Ohio.

**LABEL, IN PART:** "Ready to Serve Banquet Fricassee of Chicken Wings \* \* \* Net Weight 3 Lbs. 2 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** October 14, 1952. F. M. Stamper, owner and operator of the Banquet Canning Division of the F. M. Stamper Co., Marshall, Mo., having admitted that the product was adulterated, judgment was entered in which the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was segregated, with the result that 38 cans of the product were found unfit and were destroyed.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**19948. Adulteration of paprika. U. S. v. 2 Barrels, etc. (F. D. C. No. 34049. Sample No. 46414-L.)**

**LIBEL FILED:** October 27, 1952, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about December 13, 1951, from Spain.

PRODUCT: 2 barrels and 17 110-pound sacks of paprika at Houston, Tex.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 12, 1952. Default decree of condemnation and destruction.

**19949. Adulteration of chilies. U. S. v. 300 Bags \* \* \*. (F. D. C. No. 30369. Sample No. 91997-K.)**

LIBEL FILED: January 3, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about December 12, 1949, from Los Angeles, Calif.

PRODUCT: 300 bags of chilies at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy chilies. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 5, 1951. The Farmers Chemical Co., Kalamazoo, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency.

On June 2, 1952, an amended decree was entered, which provided for the extraction of oleoresins for use solely in the production of drugs for external use, under the supervision of the Federal Security Agency.

**19950. Adulteration and misbranding of salad dressing. U. S. v. 12 Cases \* \* \*. (F. D. C. No. 34022. Sample No. 48698-L.)**

LIBEL FILED: October 17, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about September 11, 1952, by Mrs. Dave McCleod, from Milltown, Wis.

PRODUCT: 12 cases, each containing 24 8-ounce bottles, of salad dressing at St. Paul, Minn. Examination showed that the article had the appearance and consistency of french dressing and that it contained less than 35 percent by weight of vegetable oil.

LABEL, IN PART: "Dixie Lodge Salad Dressing \* \* \* Made By J. A. Steele Dixie Lodge, Balsam Lake, Wis."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil; and, Section 403 (g) (2), the product purported to be french dressing, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to bear the name of the food, "French Dressing."

DISPOSITION: December 19, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions, for food purposes only.



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**U. S. Department of Health, Education, and Welfare**  
**FOOD AND DRUG ADMINISTRATION**

**NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT**

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19951-20000

**FOODS**

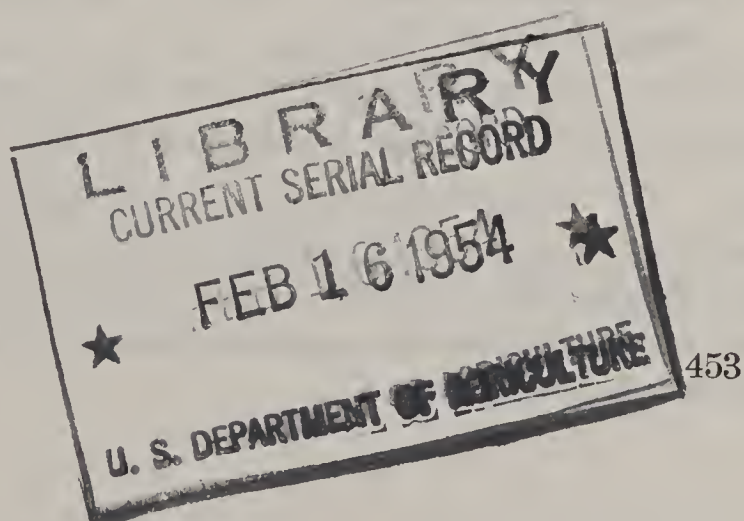
The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 25, 1954.*

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## CEREALS AND CEREAL PRODUCTS

## FLOUR

**19951. Adulteration of flour. U. S. v. 150 Bags, etc.** (F. D. C. No. 33954. Sample Nos. 59114-L to 59116-L, incl.)

**LIBEL FILED:** On or about October 24, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** Between the approximate dates of July 16, 1951, and May 29, 1952, from Fort Worth, Tex.

**PRODUCT:** 285 10-pound bags and 23 25-pound bags of flour at Tampa, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 9, 1952. Default decree of condemnation and destruction.

**19952. Adulteration of flour. U. S. v. 257 Sacks \* \* \*.** (F. D. C. No. 33949. Sample No. 59112-L.)

**LIBEL FILED:** On or about October 23, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about June 23, 1952, from St. Joseph, Mo.

**PRODUCT:** 257 25-pound sacks of flour at Tampa, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 9, 1952. Default decree of condemnation and destruction.

**19953. Adulteration of flour. U. S. v. 103 Bags \* \* \*.** (F. D. C. No. 34001. Sample No. 62230-L.)

**LIBEL FILED:** October 20, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about April 9, 1952, from Salina, Kans.

**PRODUCT:** 103 25-pound bags of flour at Paris, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1952. Default decree of condemnation and destruction.

**19954. Adulteration of flour. U. S. v. 45 Bags \* \* \*.** (F. D. C. No. 33952. Sample No. 59113-L.)

**LIBEL FILED:** On or about October 24, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 26 1952, from Knoxville, Tenn.

**PRODUCT:** 45 100-pound bags of flour at Tampa, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** December 9, 1952. Default decree of condemnation and destruction.

**19955. Adulteration of flour and poppyseed. U. S. v. 75 Bags, etc. (F. D. C. No. 33922. Sample Nos. 36279-L to 36281-L, incl.)**

**LIBEL FILED:** October 8, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 8, 10, 12, and 15, 1952, from Minneapolis, Minn., and New York, N. Y.

**PRODUCT:** 75 100-pound bags of flour and 35 110-pound bags of poppyseed at Cleveland, Ohio, in the possession of the Weideman Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects in the flour and insects parts and rodent hairs in the poppyseed; and, Section 402 (a) (4), the poppyseed had been held under insanitary conditions whereby it may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** The Weideman Co. having appeared as claimant, judgment was entered on November 5, 1952, ordering that the flour be released under bond, conditioned that it be used in the manufacture of wallpaper paste. On January 2, 1953, the court ordered that the poppyseed be released under bond to the claimant to be brought into compliance with the law by fumigating, cleansing, and repacking, under the supervision of the Food and Drug Administration.

**19956. Adulteration of flour and rice. U. S. v. 51 Bags, etc. (F. D. C. No. 33917. Sample Nos. 53089-L, 53090-L, 62216-L to 62221-L, incl., 62223-L, 62226-L.)**

**LIBEL FILED:** October 20, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** Between the approximate dates of May 8 and September 15, 1952, from Yukon, Okla., Salina, Kans., and Carlisle, Ark.

**PRODUCT:** 509 50-pound bags and 557 25-pound bags of flour, and 10 bales, each containing 30 1-pound bags, of rice at Jackson, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of live insects. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 14, 1952. J. C. Edenton Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be denatured for use as hog feed, under the supervision of the Food and Drug Administration. On February 9, 1953, an amended decree was entered providing for the destruction of the rice and a portion of the flour and for the processing of the balance of the flour for use as animal or poultry feed.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS\*

**19957. Adulteration of unpopped popcorn. U. S. v. 48 Cases \* \* \*. (F. D. C. No. 34253. Sample No. 36295-L.)**

**LIBEL FILED:** November 28, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 25, 1952, by Confections, Inc., from Red Oak, Iowa.

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\*See also Nos. 19955, 19956.

PRODUCT: 48 cases, each containing 24 1-pound packages, of unpopped popcorn at Youngstown, Ohio.

LABEL, IN PART: "Big Boy Popcorn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed kernels; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 31, 1952. Default decree of condemnation and destruction.

**19958. Adulteration of rice and mixed nuts. U. S. v. 10 Bags, etc.** (F. D. C. No. 33993. Sample Nos. 20031-L, 20032-L.)

LIBEL FILED: October 9, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about March 29 and November 16, 1951, from De Witt, Ark., and New York, N. Y.

PRODUCT: 10 100-pound bags of rice and 60 50-pound bags of mixed nuts at Duluth, Minn., in the possession of the Twin Ports Wholesale Grocer Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 19, 1952. A default decree was entered ordering that the products be denatured for use as animal feed or be destroyed.

**19959. Adulteration of wheat. U. S. v. 6,000 Bushels \* \* \*.** (F. D. C. No. 34225. Sample Nos. 14833-L to 14835-L, incl.)

LIBEL FILED: November 17, 1952, District of Kansas.

ALLEGED SHIPMENT: On or about October 25, 1952, from Calhoun and Syracuse, Mo., and Kansas City, Kans.

PRODUCT: 6,000 bushels of wheat at Kansas City, Kans. This wheat was blended at Kansas City, Kans., from three carloads of wheat which had been shipped as described above.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 26, 1952. Wolcott-Lincoln, Inc., Kansas City, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was denatured for use as animal feed.

**19960. Adulteration of wheat. U. S. v. 118,800 Pounds \* \* \*.** (F. D. C. No. 34282. Sample No. 20202-L.)

LIBEL FILED: December 6, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about November 24, 1952, by the Tri-State Milling Co., from Vivian, S. Dak.

PRODUCT: 118,800 pounds of wheat at Minneapolis, Minn.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** December 23, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed into animal feed, under the supervision of the Federal Security Agency.

**19961. Adulteration of wheat. U. S. v. 108,000 Pounds \* \* \*. (F. D. C. No. 34278. Sample No. 14836-L.)**

**LIBEL FILED:** December 5, 1952, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about November 17, 1952, by the M. F. A. Cooperative Association, from Morrison, Mo.

**PRODUCT:** 108,000 pounds of wheat at Galveston, Tex.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** December 18, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was utilized in the manufacture of animal feed.

**19962. Adulteration of wheat. U. S. v. 100,000 Pounds \* \* \*. (F. D. C. No. 34295. Sample No. 14840-L.)**

**LIBEL FILED:** On or about December 10, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about December 2, 1952, by the Piqua Grain Co., from Piqua, Kans.

**PRODUCT:** 100,000 pounds of wheat at North Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** December 24, 1952. Royal R. Cox having appeared as claimant, the court ordered that the product be released under bond to be reprocessed into animal feed.

**19963. Adulteration of wheat. U. S. v. 80,000 Pounds \* \* \*. (F. D. C. No. 34229. Sample No. 48388-L.)**

**LIBEL FILED:** November 18, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 5, 1952, by the Equity Elevator & Trading Co., from Hickson, N. Dak.

**PRODUCT:** 80,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** December 23, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed into animal feed, under the supervision of the Federal Security Agency.

19964. Adulteration of cracked wheat. U. S. v. 18 Bags \* \* \*. (F. D. C. No. 34299. Sample No. 8258-L.)

LIBEL FILED: December 10, 1952, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 26, 1952, from East Buffalo, N. Y., and on or about October 23 and 31, 1952, from Lincoln, Nebr.

PRODUCT: 18 100-pound bags of cracked wheat at Meadville, Pa., in the possession of the Meadville Bread Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 30, 1952. Default decree of condemnation and destruction.

## DAIRY PRODUCTS

### BUTTER

19965. Adulteration of butter. U. S. v. 111 Cubes (7,104 pounds) \* \* \*. (F. D. C. No. 34175. Sample No. 44437-L.)

LIBEL FILED: November 25, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 12, 1952, by the Linn County Farmers Mutual Creamery Association, from Coggan, Iowa.

PRODUCT: 111 cubes, each containing 64 pounds, of butter at Cambridge, Mass.

LABEL, IN PART: "Butter Distributed by Watts & Sons \* \* \* New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 10, 1952. Watts & Sons, New York, N. Y., claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.

19966. Adulteration of butter. U. S. v. 24 Cartons (approximately 1,680 pounds) \* \* \*. (F. D. C. No. 34177. Sample No. 65601-L.)

LIBEL FILED: November 1, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about October 22, 1952, by the Landsberger Creamery & Produce Co., from Sisseton, S. Dak.

PRODUCT: 24 cartons, each containing approximately 70 pounds, of butter at Montevideo, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 22, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Federal Security Agency.

19967. Adulteration of butter. U. S. v. 16 Cartons (approximately 1,024 pounds) \* \* \*. (F. D. C. No. 34182. Sample Nos. 37076-L, 37078-L.)

LIBEL FILED: November 6, 1952, Southern District of New York.



**ALLEGED SHIPMENT:** On or about October 21, 1952, by L. D. Schreiber & Co., Inc., from Chicago, Ill.

**PRODUCT:** 16 cartons, each containing approximately 64 pounds, of butter at New York, N. Y.

**LABEL, IN PART:** "Butter L. D. Schreiber & Co., Inc. Sales Agent for The Marketing Association of America A Cooperative Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 21, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.

**19968. Adulteration of butter. U. S. v. 11 Cartons (726 pounds) \* \* \*. (F. D. C. No. 34181. Sample No. 37956-L.)**

**LIBEL FILED:** November 6, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 18, 1952, by the Harding Cream Co., from Omaha, Nebr.

**PRODUCT:** 11 66-pound cartons of butter at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** January 7, 1953. The Sugar Creek Creamery Co., Danville, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.

### CHEESE

**19969. Misbranding of pasteurized process cheddar cheese, pasteurized process swiss cheese, and pasteurized process blue cheese. U. S. v. Zausner Foods, Inc. Plea of guilty. Sentence suspended. (F. D. C. No. 32718. Sample Nos. 5668-L, 24166-L.)**

**INFORMATION FILED:** July 17, 1952, District of New Jersey, against Zausner Foods, Inc., Harrison and Hillside, N. J.

**ALLEGED SHIPMENT:** Between the approximate dates of October 3 and 29, 1951, from the State of New Jersey into the States of Massachusetts and New York.

**LABEL, IN PART:** "Zausner Foods Inc. \* \* \* Wine Cheddar Pasteurized Process Cheese Flavored with Wine," "Zausner Foods Inc. \* \* \* Smoked [or "Sharp Aged"] Cheddar Pasteurized Process Cheese," and "Zausner Foods Inc. \* \* \* Brandy Blue Pasteurized Process Cheese Flavored with Brandy."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards for pasteurized process cheddar cheese, pasteurized process swiss cheese, and pasteurized process blue cheese. The pasteurized process cheddar cheese contained more than 40 percent of moisture, and the solids of portions of this cheese contained less than 50 percent of milk fat. The pasteurized process swiss cheese contained more than 44 percent of moisture, and the solids of the pasteurized process blue cheese contained less than 50 percent of milk fat. The definitions and standards of identity provide that pasteurized process cheddar cheese contains not more than 40 percent of moisture and that its solids contain not less than 50 percent of

milk fat; that pasteurized process swiss cheese contain not more than 44 percent of moisture; and that the solids of pasteurized process blue cheese contain not less than 50 percent of milk fat.

**DISPOSITION:** January 30, 1953. Following the entry of a plea of guilty by the corporation, the court suspended the imposition of sentence against this defendant.

## EGGS

**19970. Adulteration of frozen eggs. U. S. v. 636 Cans \* \* \*. (F. D. C. No. 34243. Sample No. 16522-L.)**

**LIBEL FILED:** On or about November 25, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about June 16, 1952, by Wilson & Co., from Atchison, Kans.

**PRODUCT:** 636 30-pound cans of frozen eggs at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** December 29, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. 91 cans of the product were found inedible and were destroyed by mixing with tankage.

**19971. Adulteration of frozen eggs. U. S. v. 287 Cans \* \* \*. (F. D. C. No. 33553. Sample No. 4719-L.)**

**LIBEL FILED:** August 21, 1952, District of Columbia.

**ALLEGED SHIPMENT:** On or about August 18, 1952, by the Morristown Poultry Co., from Morristown, Tenn.

**PRODUCT:** 287 30-pound cans of frozen eggs at Washington, D. C.

**LABEL, IN PART:** "Pride of the Farm Fancy Whole Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** November 13, 1952. The Burnett Produce Co., Morristown, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. Segregation operations resulted in the salvaging of 154 cans. The remainder was denatured for use as hog feed.

## FISH AND SHELLFISH

**19972. Adulteration of canned sardines. U. S. v. 45 Cases \* \* \*. (F. D. C. No. 34009. Sample No. 46670-L.)**

**LIBEL FILED:** On or about October 10, 1952, Southern District of Texas.

**ALLEGED SHIPMENT:** Between May 1949 and 1952, by the French Sardine Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 45 cases, each containing 48 15-ounce cans, of sardines at Corpus Christi, Tex.



**LABEL, IN PART:** "Eatwell Brand \* \* \* Sardines."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 30, 1952. Default decree of condemnation and destruction.

**19973. Adulteration of crabmeat. U. S. v. J. H. Fleming & Co. and Edward J. Fleming. Pleas of nolo contendere. Each defendant fined \$250. (F. D. C. No. 33808. Sample Nos. 57215-L to 57219-L, incl.)**

**INFORMATION FILED:** October 23, 1952, Eastern District of Virginia, against J. H. Fleming & Co., a partnership, Portsmouth, Va., and Edward J. Fleming, partner and plant manager.

**ALLEGED SHIPMENT:** On or about June 25, 1952, from the State of Virginia into the States of Pennsylvania and Maryland.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance as evidenced by the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 12, 1953. Pleas of nolo contendere having been entered, the court fined each defendant \$250.

**19974. Adulteration of oysters. U. S. v. 928 Cans \* \* \*. (F. D. C. No. 33999. Sample Nos. 39414-L, 39415-L.)**

**LIBEL FILED:** October 9, 1952, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by Seacoast Oyster Co., Inc., from Baltimore, Md.

**PRODUCT:** 928 pint cans of oysters at Williamsport, Pa.

**LABEL, IN PART:** "Oysters Standards \* \* \* [or "Selects"] Pride of Chesapeake Bay."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 12, 1952. Default decree of condemnation and destruction.

**19975. Adulteration of oysters. U. S. v. 104 Cans \* \* \*. (F. D. C. No. 34209. Sample No. 57453-L.)**

**LIBEL FILED:** November 12, 1952, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about November 5, 1952, by Seacoast Oyster Co., Inc., from Baltimore, Md.

**PRODUCT:** 104 pint cans of oysters in 1 barrel at Sturgis, Mich.

**LABEL, IN PART:** "Pride of Chesapeake Bay Lovely Lady \* \* \* Oysters Standards."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 11, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use and not for sale.

**19976. Adulteration of oysters. U. S. v. 304 Cans \* \* \*. (F. D. C. No. 34042. Sample No. 38992-L.)**

**LIBEL FILED:** October 27, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 20, 1952, by Lancaster Seafoods, Inc., from Morattico, Va.

**PRODUCT:** 304 pint cans of oysters at Zanesville, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 30, 1952. Default decree of destruction.

**19977. Adulteration of oysters. U. S. v. 160 Cans \* \* \*. (F. D. C. No. 33988. Sample Nos. 39224-L, 39225-L.)**

**LIBEL FILED:** October 2, 1952, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 29, 1952, by the Wilson Seafood Co., from Deal Island, Md.

**PRODUCT:** 160 pint cans of oysters in 1 barrel at Scranton, Pa.

**LABEL, IN PART:** "Delicious Oysters \* \* \* Standards [or "Selects"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 10, 1952. Default decree of condemnation and destruction.

**19978. Adulteration of oysters. U. S. v. 1 Barrel \* \* \*. (F. D. C. No. 34264. Sample No. 66697-L.)**

**LIBEL FILED:** December 1, 1952, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about November 25, 1952, by Robbins Bros., from Mauricetown, N. J.

**PRODUCT:** 1 barrel containing 84 pint cans of oysters at Oklahoma City, Okla.

**LABEL, IN PART:** "Oysters Selects Robbins Bros. Port Norris, N. J. \* \* \* Jersey's Best Brand Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** December 3, 1952. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be delivered to a charitable institution for its use and not for sale.

**19979. Misbranding of oysters. U. S. v. 144 Cans, etc. (F. D. C. No. 34244. Sample Nos. 4140-L, 39457-L.)**

**LIBEL FILED:** November 24, 1952, Western District of Kentucky.



**ALLEGED SHIPMENT:** On or about November 19 and 20, 1952, by M. F. Quinn, from Hampton, Va.

**PRODUCT:** 288 pint cans of oysters at Louisville, Ky.

**LABEL, IN PART:** "Plum Tree Island Brand One Pint Oysters Standards."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "One Pint" was inaccurate. (Examination showed that the product was short volume.)

**DISPOSITION:** November 24, 1952. Edward Distler, Louisville, Ky., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was dumped into a bulk container for bulk sale over the counter to retail customers.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**19980. Misbranding of canned cherries. U. S. v. 299 Cases \* \* \*. (F. D. C. No. 33878. Sample No. 30720-L.)**

**LIBEL FILED:** September 24, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 25, 1952, by the Paulus Bros. Packing Co., from Salem, Oreg.

**PRODUCT:** 299 cases, each containing 24 1-pound, 14-ounce cans, of cherries at New York, N. Y.

**LABEL, IN PART:** "Grisdale Dark Sweet Pitted Bing Cherries In Extra Heavy Syrup Gristede Bros., Inc., Distributors, New York, N. Y."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cherries since it contained an excessive number of pits and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** January 26, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19981. Misbranding of canned cherries. U. S. v. 59 Cases \* \* \*. (F. D. C. No. 34230. Sample No. 40728-L.)**

**LIBEL FILED:** November 19, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 23, 1949, by the Fruitland Packing Co., from Shelby, Mich.

**PRODUCT:** 59 cases, each containing 24 1-pound, 3-ounce cans, of cherries at Tacoma, Wash.

**LABEL, IN PART:** "Steen Brand \* \* \* Extra Heavy Syrup Red Sour Pitted Cherries."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned pitted cherries, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the regulations, the name of the optional packing medium

present since the label bore the statement "Extra Heavy Syrup" and the product was packed in heavy sirup.

**DISPOSITION:** December 9, 1952. The Standard Grocery Co., Tacoma, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**19982. Misbranding of canned peaches. U. S. v. 914 Cases \* \* \*. (F. D. C. No. 33955. Sample No. 14968-L.)**

**LIBEL FILED:** October 24, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 8, 1952, by the Smeltzer Orchard Co., from Beulah, Mich.

**PRODUCT:** 914 cases, each containing 24 1-pound, 14-ounce cans, of peaches at Kansas City, Mo.

**LABEL, IN PART:** "Smeltzer Orchard Brand Yellow Freestone Halves Peaches In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as prescribed by the regulations, the name of the optional packing medium present since the label bore the statement "In Heavy Syrup" and the article was packed in light sirup. Further misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peaches in that the weight of some of the peach units was less than  $\frac{3}{5}$  ounce; the weight of the largest unit in the container was more than twice the weight of the smallest unit; and all of the units were not trimmed or so trimmed as to preserve their normal shape, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** December 2, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

## VEGETABLES

**19983. Adulteration of canned corn. U. S. v. 925 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34191, 34192. Sample Nos. 53794-L, 53795-L.)**

**LIBELS FILED:** November 3, 1952, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about September 19 and 24, 1952, by Thomas Roberts & Co., from Hillsboro, Md.

**PRODUCT:** 2,419 cases, each containing 6 6-pound, 10-ounce cans, of corn at St. Louis, Mo.

**LABEL, IN PART:** "Pride of the Farm Brand Cream Style Golden Sugar Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms and worm fragments.

**DISPOSITION:** February 5, 1953. Default decrees of condemnation. The court ordered that the product be sold to the highest bidder for use other than for human consumption.



**19984. Misbranding of canned corn. U. S. v. 1,200 Cases \* \* \*. (F. D. C. No. 33900. Sample No. 34836-L.)**

**LIBEL FILED:** On or about October 14, 1952, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 3, 1952, by the Clyman Canning Co., from Friesland, Wis.

**PRODUCT:** 1,200 cases, each containing 24 unlabeled cans, of corn at Hoopeston, Ill. No labeling agreement existed between the consignee and the shipper.

**NATURE OF CHARGE:** Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the product purported to be and was represented as canned corn, a food of which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the food specified in the standard since the product was yellow whole kernel corn and the cans were unlabeled.

**DISPOSITION:** January 14, 1953. The Clyman Canning Co. and the Illinois Canning Co., Hoopeston, Ill., claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be labeled under the supervision of the Food and Drug Administration.

**19985. Misbranding of canned corn. U. S. v. 1,051 Cases \* \* \*. (F. D. C. No. 33899. Sample No. 34835-L.)**

**LIBEL FILED:** On or about October 16, 1952, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 22, 1952, by the Rockfield Canning Co., from Jackson, Wis.

**PRODUCT:** 1,051 cases, each containing 24 unlabeled cans, of corn at Hoopeston, Ill. No labeling agreement existed between the consignee and the shipper.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the product purported to be and was represented as canned corn, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the food specified in the standard since the product was yellow whole kernel corn and the cans were unlabeled.

**DISPOSITION:** January 14, 1953. The Rockfield Canning Co. and the Illinois Canning Co., Hoopeston, Ill., claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be labeled under the supervision of the Food and Drug Administration.

**19986. Adulteration of frozen spinach. U. S. v. 71 Cases \* \* \*. (F. D. C. No. 34060. Sample No. 15227-L.)**

**LIBEL FILED:** On or about September 22, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about May 11, 1952, by Kingan & Co., from Omaha, Nebr.

**PRODUCT:** 71 cases, each containing 48 14-ounce packages, of frozen spinach at Kansas City, Mo.

**LABEL, IN PART:** "JI Frozen Fresh Chopped Spinach \* \* \* John Inglis Frozen Food Company Modesto California."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance containing added water in the form of ice had been substituted in whole or in part for frozen spinach; and, Section 402 (b) (4), water in the form of ice had been added to the article or mixed or packed with it so as to increase its bulk or reduce its quality or strength.

**DISPOSITION:** January 12, 1953. No claimant having appeared, judgment was entered and the court ordered that the product be delivered to a charitable institution for its use and not for sale.

**19987. Adulteration of canned chopped turnip greens. U. S. v. 26 Cases \* \* \*.**  
(F. D. C. No. 34248. Sample No. 46848-L.)

**LIBEL FILED:** November 24, 1952, Northern District of Alabama.

**ALLEGED SHIPMENT:** On or about September 5, 1952, by the Mayhaw Canning Co., from Laurel, Miss.

**PRODUCT:** 26 cases, each containing 24 1-pound, 11-ounce cans, of chopped turnip greens at Birmingham, Ala.

**LABEL, IN PART:** "Miss America Brand Chopped Turnip Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), grass had been substituted in part for chopped turnip greens.

**DISPOSITION:** December 29, 1952. Default decree of condemnation and destruction.

### TOMATOES AND TOMATO PRODUCTS

**19988. Adulteration of canned tomatoes. U. S. v. Hillard Woodruff (Woodruff Canning Co. Inc.). Plea of nolo contendere. Fine of \$150, plus costs.**  
(F. D. C. No. 32796. Sample No. 8944-L.)

**INFORMATION FILED:** On or about August 11, 1952, Southern District of Indiana, against Hillard Woodruff, president of Woodruff Canning Co., Inc., Goldsmith, Ind.

**ALLEGED SHIPMENT:** On or about September 17, 1951, from the State of Indiana into the State of Michigan.

**LABEL, IN PART:** (Can) "Indiana Tomatoes \* \* \* Packed by Woodruff Canning Co. Inc."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fly eggs; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 23, 1953. The defendant having entered a plea of nolo contendere, the court fined him \$150, plus costs.

**19989. Adulteration and misbranding of canned tomatoes. U. S. v. 350 Cases \* \* \*.**  
(F. D. C. No. 34107. Sample No. 39297-L.)

**LIBEL FILED:** November 12, 1952, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about September 15, 1952, by Albert W. Sisk & Son, from Cannon, Del.

**PRODUCT:** 350 cases, each containing 24 1-pound, 11-ounce cans, of tomatoes at Norfolk, Va.



**LABEL, IN PART:** (Can) "Pine Cone Brand Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** January 6, 1953. Default decree of condemnation and destruction.

**19990. Adulteration of tomato catsup. U. S. v. 242 Cases \* \* \* (and 4 other seizure actions). (F. D. C. Nos. 33910 to 33914, incl. Sample No. 3739-L.)**

**LIBELS FILED:** October 3, 1952, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about September 12, 1952, by Gibbs & Co., Inc., from Baltimore, Md.

**PRODUCT:** 394 cases, each containing 24 14-ounce bottles, of tomato catsup at Norfolk, Va.

**LABEL, IN PART:** (Bottle) "Gibbs Tomato Catsup."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** On October 29, 1952, Gibbs & Co., Inc., having appeared and filed a petition for consolidation of the libels, an order was entered directing such consolidation. On March 9, 1953, no answer having been filed, judgment of condemnation was entered and the court ordered that the product be destroyed.

**19991. Adulteration of tomato juice. U. S. v. 149 Cases \* \* \*. (F. D. C. No. 34279. Sample No. 7962-L.)**

**LIBEL FILED:** December 4, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 24, 1952, by Growers & Packers Cooperative Canning Co., Inc., from North Collins, N. Y.

**PRODUCT:** 149 cases, each containing 24 cans, of tomato juice at New Castle, Pa.

**LABEL, IN PART:** (Can) "Gro-Pak Tomato Juice Contents 1 Qt. 14 Fl. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 23, 1952. Default decree of condemnation and destruction.

**19992. Adulteration of tomato juice. U. S. v. 142 Cartons \* \* \*. (F. D. C. No. 34289. Sample No. 8256-L.)**

**LIBEL FILED:** December 8, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by Growers & Packers Cooperative Canning Co., Inc., from North Collins, N. Y.

**PRODUCT:** 142 cartons, each containing 12 cans, of tomato juice at Pittsburgh, Pa.

**LABEL, IN PART:** (Can) "1 Qt. 14 Fl. Oz. Pond Lily Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 30, 1952. Default decree of condemnation and destruction.

**19993. Adulteration of tomato puree.** U. S. v. 1,135 Cases \* \* \*. (F. D. C. No. 34059. Sample Nos. 15125-L, 15166-L.)

**LIBEL FILED:** October 6, 1952, District of Nebraska.

**ALLEGED SHIPMENT:** On or about February 2, 1951, by the McMahon Sales Co., from Cucamonga, Calif.

**PRODUCT:** 1,135 cases, each containing 6 No. 10 cans, of tomato puree at Scottsbluff, Nebr.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 23, 1952. The Consumers Cooperative Association, Scottsbluff, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 101 cases of the product were found unfit and were destroyed.

## NUTS AND NUT PRODUCTS\*

**19994. Adulteration of cashew nuts.** U. S. v. 592 Tins \* \* \*. (F. D. C. No. 34145. Sample Nos. 57281-L, 57282-L.)

**LIBEL FILED:** On or about November 17, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about October 21, 1952, by the Zaloom Bros. Co., from New York, N. Y.

**PRODUCT:** 592 25-pound tins of cashew nuts at Baltimore, Md.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, webbing, and insect-infested nuts.

**DISPOSITION:** December 3, 1952. The Zaloom Bros. Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and removal of the unfit portion, under the supervision of the Federal Security Agency. 245 pounds of the product were found unfit and were destroyed.

**19995. Adulteration of unshelled walnuts.** U. S. v. 50 Bags \* \* \*. (F. D. C. No. 34092. Sample No. 2357-L.)

**LIBEL FILED:** October 29, 1952, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 26, 1951, from San Francisco, Calif.

**PRODUCT:** 50 100-pound bags of unshelled walnuts at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

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\*See also No. 19958.



The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 9, 1952. The Salem Nut Growers Cooperative, Salem, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency.

The product was shelled and hand sorted, with the result that 3,541 pounds of shells and nut meats were found unfit and were destroyed.

**19996. Adulteration of sunflower seeds. U. S. v. 56 Bags, etc. (F. D. C. No. 34007. Sample Nos. 19642-L, 19643-L.)**

**LIBEL FILED:** October 9, 1952, District of North Dakota.

**ALLEGED SHIPMENT:** On or about August 29, 1952, from Los Angeles, Calif.

**PRODUCT:** 125 100-pound bags of sunflower seeds at Bismarck, N. Dak., in the possession of Oscar H. Will & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 24, 1952. The sole intervener having consented, judgment of condemnation and destruction was entered.

**19997. Adulteration of peanut butter. U. S. v. 24 Cases \* \* \*. (F. D. C. No. 34237. Sample No. 41910-L.)**

**LIBEL FILED:** November 20, 1952, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about October 31, 1952, by the Pacific Fruit & Produce Co., from Oakland, Calif.

**PRODUCT:** 15 cases, each containing 24 14-ounce jars, and 9 cases, each containing 12 10-ounce jars of peanut butter at Walla Walla, Wash.

**LABEL, IN PART:** "Standby \* \* \* Homogenized Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 9, 1952. The sole intervener having consented, judgment of condemnation and destruction was entered.

## POULTRY

**19998. Adulteration of dressed poultry. U. S. v. 4,500 Pounds \* \* \*. (F. D. C. No. 34108. Sample No. 49534-L.)**

**LIBEL FILED:** November 7, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 21, 1952, by the New Hampshire Poultry Co., from Manchester, N. H.

**PRODUCT:** 4,500 pounds of dressed poultry at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which

were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, and of birds which had died otherwise than by slaughter.

**DISPOSITION:** January 20, 1953. The New Hampshire Poultry Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be salvaged by evisceration in order to remove all portions which were contaminated with filth and those birds which were diseased or had died otherwise than by slaughter. 374 pounds of the product were found unfit and were destroyed.

**19999. Adulteration of dressed turkeys. U. S. v. 94 Crates \* \* \*. (F. D. C. No. 34155. Sample No. 49536-L.)**

**LIBEL FILED:** November 19, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 12, 1951, from Thief River Falls, Minn.

**PRODUCT:** 94 crates containing a total of 9,910 pounds of dressed turkeys at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 8, 1953. Armour & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the unfit portion, under the supervision of the Federal Security Agency. Approximately 2,604 pounds of the product were found unfit and were destroyed.

**20000. Adulteration and misbranding of canned chicken. U. S. v. 209 Cases \* \* \*. (F. D. C. No. 33306. Sample Nos. 4042-L, 4448-L.)**

**LIBEL FILED:** On or about June 20, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about August 10, 1951, by the Chicago Western Corp., from Chicago, Ill.

**PRODUCT:** 209 cases, each containing 12 cans, of chicken at Baltimore, Md.

**LABEL, IN PART:** (Can) "Pinafore Net Weight 2 Lbs. 4 Oz. One Whole Young Chicken Without Giblets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. The weight of the contents of the cans was less than 2 pounds and 4 ounces, the declared weight. The article was misbranded when introduced into and while in interstate commerce.

**DISPOSITION:** January 21, 1953. The Chicago Western Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that all abnormal cans be segregated and destroyed and that the normal cans be relabeled under the supervision of the Food and Drug Administration. 12 cans of the product were found abnormal and were destroyed.



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U. S. Department of Health, Education, and Welfare

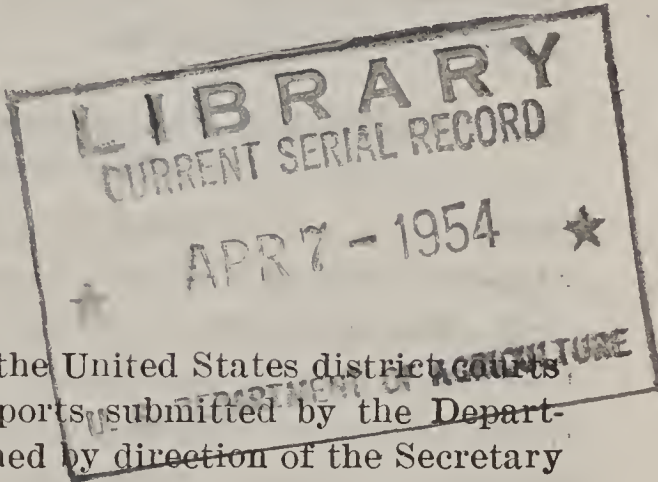
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20001-20050

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *March 17, 1954.*

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20001. Adulteration of bread. U. S. v. Felice A. DiRienzo (DiRienzo Bros.).**  
Plea of guilty. Fine, \$500. (F. D. C. No. 33836. Sample No. 7540-L.)

**INFORMATION FILED:** November 28, 1952, Northern District of New York,  
against Felice A. DiRienzo, a partner in the firm of DiRienzo Bros., Bingham-  
ton, N. Y.

**ALLEGED SHIPMENT:** On or about March 26, 1952, from the State of New York  
into the State of Pennsylvania.

**LABEL, IN PART:** "Italian Sliced Bread \* \* \* Made by DiRienzo Bros. \* \* \*  
Binghamton, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in  
part of a filthy substance by reason of the presence of insects, insect fragments,  
moth wing scales, and rodent hair fragments; and, Section 402 (a) (4), it had  
been prepared and packed under insanitary conditions whereby it may have  
become contaminated with filth.

**DISPOSITION:** April 8, 1953. A plea of guilty having been entered, the court  
fined the defendant \$500.

**20002. Adulteration and misbranding of fruitcake. U. S. v. 418 Tins \* \* \*.**  
(F. D. C. No. 34205. Sample No. 36659-L.)

**LIBEL FILED:** November 6, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 18, 1952, by Waldorf Pound Cake  
Co., Inc., from New York, N. Y.

**PRODUCT:** 418 2-pound tins of fruitcake at Cincinnati, Ohio.

**LABEL, IN PART:** "Waldorf Rum and Brandy Fruit Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in  
whole or in part of a filthy substance by reason of the presence of insects,  
insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had  
been prepared under insanitary conditions whereby it may have become con-  
taminated with filth.

Misbranding, Section 403 (a), the label designation "Rum and Brandy" was  
false and misleading as applied to cake having no odor or taste of rum or  
brandy.

**DISPOSITION:** January 8, 1953. Default decree of condemnation and destruction.

**FLOUR\***

**20003. Adulteration of flour. U. S. v. 18 Bags \* \* \*. (F. D. C. No. 34222.**  
Sample No. 65204-L.)

**LIBEL FILED:** November 14, 1952, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about October 7, 1952, from Winona, Minn.

**PRODUCT:** 18 100-pound bags of flour at Chippewa Falls, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in  
whole or in part of a filthy substance by reason of the presence of rodent urine.  
The product was adulterated while held for sale after shipment in interstate  
commerce.

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\*See also No. 20019.



**DISPOSITION:** January 20, 1953. Default decree of forfeiture and destruction.

**20004. Adulteration of flour. U. S. v. 14 Bags \* \* \*. (F. D. C. No. 34288. Sample No. 56238-L.)**

**LIBEL FILED:** December 8, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 30, 1952, from Minneapolis, Minn.

**PRODUCT:** 14 95-pound bags of flour at Dayton, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and rodent pellets. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 27, 1953. Default decree of condemnation. The court ordered that the product be delivered to an institution, for use as stock feed.

**20005. Adulteration and misbranding of enriched flour. U. S. v. Whitewater Flour Mills Co. (Ross Milling Co.). Plea of guilty. Fine of \$500 and costs. (F. D. C. No. 33741. Sample No. 46354-L.)**

**INFORMATION FILED:** December 9, 1952, District of Kansas, against the Whitewater Flour Mills Co., a corporation, trading as the Ross Milling Co., Whitewater, Kans.

**ALLEGED SHIPMENT:** On or about March 5, 1952, from the State of Kansas into the State of Louisiana.

**LABEL, IN PART:** "Whitewater Rose Bleached Flour \* \* \* Enriched Self-Rising."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, thiamine, riboflavin, and niacin, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched self-rising flour since each pound contained less than 2 milligrams of thiamine, less than 1.2 milligrams of riboflavin, and less than 16 milligrams of niacin.

**DISPOSITION:** January 12, 1953. The defendant having entered a plea of guilty, the court fined it \$500, plus costs.

#### MISCELLANEOUS CEREALS\*

**20006. Adulteration of rice. U. S. v. 250 Bags \* \* \*. (F. D. C. No. 34407. Sample No. 22254-L.)**

**LIBEL FILED:** December 10, 1952, District of Puerto Rico.

**ALLEGED SHIPMENT:** On or about November 19, 1952, by United Rice Milling Products Co., Inc., from New Orleans, La.

**PRODUCT:** 250 100-pound bags of rice at Camuy, P. R.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, larva parts, and insect excreta.

**DISPOSITION:** January 14, 1953. United Rice Milling Products Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal

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\*See also No. 20014.

Security Agency. The product was reconditioned, with the result that 11 100-pound bags of the product were found unfit and were destroyed.

**20007. Adulteration of rice. U. S. v. 13 Bags \* \* \*. (F. D. C. No. 34210. Sample No. 8237-L.)**

**LIBEL FILED:** November 7, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 21, 1952, from Youngstown, Ohio.

**PRODUCT:** 13 100-pound bags of rice at Sharon, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects and insect fragments. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20008. Adulteration of tapioca, cocoa, cocoa beans, sugar, coffee beans, garbanzos, and coriander seed. U. S. v. 567 Bags, etc. (F. D. C. No. 33222. Sample Nos. 36960-L, 36963-L, 37260-L, 37261-L, 37263-L to 37265-L, incl., 37267-L, 38594-L, 38595-L.)**

**LIBEL FILED:** May 1, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about May 31, June 12, August 21, September 8, and October 15, 1951, and February 14, 1952, and various other dates, from various foreign countries.

**PRODUCT:** 567 200-pound bags of tapioca, 4 112-pound barrels of cocoa, 523 175-pound bags of cocoa beans, 46 100-pound bags of sugar, 13 140-pound bags of cocoa beans, 7 140-pound bags of coffee beans, 5 100-pound bags of garbanzos, 9 140-pound bags of cocoa beans, 499 100-pound bags of coriander seed, and 250 140-pound bags of coffee beans, at Brooklyn, N. Y., in the possession of Beard's Erie Basin, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy substances by reason of the presence of rodent excreta, rodent urine, rodent hairs, insect excreta, insects, and insect fragments; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** On May 20, 1952, S. Alexander Schonbrunn, a partner of the Sassco Coffee Co., New York, N. Y., claimant for the 250-bag lot of coffee beans, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. The segregation operations resulted in the destruction of 123 pounds of coffee beans as unfit.

On May 28, 1952, the Aetna International Corp., New York, N. Y., having appeared as claimant for the coriander seed and having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Federal Security Agency. The product was segregated, resulting in the destruction of approximately 800 pounds as unfit.



A. C. Israel Commodity Co., Inc., New York, N. Y., appeared as claimant for the 523-bag lot and 9-bag lot of cocoa beans and Madagascar Agencies, Inc., New York, N. Y., appeared as claimant for the tapioca, and upon consenting to the entry of decrees, judgments of condemnation were entered on June 11, 1952. The court ordered that the products be released under bond for re-processing under the supervision of the Federal Security Agency. 33,197 pounds of the tapioca were segregated as unfit and were denatured for use for technical purposes. As to the cocoa beans, 4,908 pounds of skimmings were removed from the bags and commingled with 2,877 pounds of skimmings from the lot of cocoa beans involved in the case reported in notice of judgment No. 20012. The commingled skimmings were screened, with the result that 661 pounds were removed as unfit and were denatured.

With respect to the libel actions against the 5-bag lot of garbanzos, the 7-bag lot of coffee beans, the 13-bag lot of cocoa beans, the 4-barrel lot of cocoa, and the 46-bag lot of sugar, no claimant appeared, and the court, on February 9, March 10, and April 29, 1953, entered default decrees of condemnation and destruction.

## CHOCOLATE, SUGAR, AND RELATED PRODUCTS

### CANDY

**20009. Adulteration of candy. U. S. v. 18 Boxes, etc.** (F. D. C. No. 33868. Sample Nos. 3550-L, 39291-L, 39292-L.)

**LIBEL FILED:** September 23, 1952, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about July 25 and August 8, 1952, by the Supreme Candy Co. (Wellons Candy Co.), from Dunn, N. C.

**PRODUCT:** 358 boxes of candy bars at South Norfolk, Va. Each box contained 40 bars.

**LABEL, IN PART:** "Wellons Nut Roll," "Rainbow Bar," "Cabbage Bar," "Choo-Choo," "Tic Tic Tic Nut Roll," "Pixie," and "Jazz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

**DISPOSITION:** January 27, 1953. Default decree of condemnation and destruction.

**20010. Adulteration of candy. U. S. v. 12 Pails \* \* \*.** (F. D. C. No. 34234. Sample No. 8244-L.)

**LIBEL FILED:** On or about November 19, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by the Oswego Candy Co., from Oswego, N. Y.

**PRODUCT:** 12 15-pound pails of candy at Steubenville, Ohio.

**LABEL, IN PART:** "Ox-Heart Brand \* \* \* Ox-Heart Chocolate Cream Drops."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect and rodent hair fragments and metal fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 26, 1953. Default decree of destruction.

## CHOCOLATE AND COCOA PRODUCTS\*

**20011. Adulteration and misbranding of chocolate malt flavored sirup. U. S. v. 4 Cases \* \* \*. (F. D. C. No. 33677. Sample No. 36263-L.)**

**LIBEL FILED:** September 4, 1952, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 13 and July 3, 1952, by Berko Malted Milk Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 4 cases, each containing 24 22-ounce bottles, of chocolate malt flavored sirup at Cleveland, Ohio. Analysis disclosed that the product contained 64 percent of the declared amount of vitamin B<sub>1</sub>.

**LABEL, IN PART:** "Cook Book Chocolate Malt Flavored Syrup With Vitamins B<sub>1</sub> D G."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in whole or in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the label statements "Each Ounce Contains \* \* \* Vitamin B<sub>1</sub> \* \* \* 222 USP Units" and "2 Ounces \* \* \* Daily, Will Provide 100% of Daily Minimum Requirements of Vitamin B<sub>1</sub>" were false and misleading since the article contained less than the declared amount of vitamin B<sub>1</sub>; and, Section 403 (f), the statement of the quantity of the contents required by the law to appear on the label was not prominently placed thereon with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

**DISPOSITION:** October 2, 1952. Default decree of condemnation and destruction.

**20012. Adulteration of cocoa beans and oregano leaves. U. S. v. 773 Bags, etc. (F. D. C. No. 33246. Sample Nos. 36964-L, 37269-L, 38606-L, 38608-L, 38609-L.)**

**LIBEL FILED:** May 14, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about October 30, 1950, and November 22 and 23 and December 13, 1951, from various foreign countries.

**PRODUCT:** 1,820 140-pound bags of cocoa beans and 44 108-pound bags of oregano leaves at Brooklyn, N. Y., in the possession of Beard's Erie Basin, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 16 and July 1, 1952. A. C. Israel Commodity Co., Inc., New York, N. Y., claimant for the cocoa beans, and Morris J. Golombeck, Inc., New York, N. Y., claimant for the oregano leaves, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the products be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

2,877 pounds of skimmings were removed from the bags of cocoa beans and were commingled with 4,908 pounds of skimmings from the 523-bag lot and 9-bag lot of cocoa beans involved in the case reported in notice of judgment No. 20008. The commingled skimmings were screened, with the result that

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\*See also No. 20008.



661 pounds were removed as unfit and were destroyed. 466 pounds of oregano leaves were segregated as unfit and were destroyed.

**20013. Adulteration of cocoa butter. U. S. v. 4 Bags \* \* \*. (F. D. C. No. 33309. Sample No. 37268-L.)**

**LIBEL FILED:** June 25, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about November 25, 1950, from Brazil.

**PRODUCT:** 4 150-pound bags of cocoa butter at Brooklyn, N. Y., in the possession of Beard's Erie Basin, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 27, 1952. Default decree of condemnation and destruction.

**20014. Adulteration of cocoa sweeps, coffee sweeps, tea sweeps, chilies, ginger, and bulgur. U. S. v. 35 Bags, etc. (F. D. C. No. 33947. Sample Nos. 50833-L to 50837-L, incl.)**

**LIBEL FILED:** October 22, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On various unknown dates from places outside the State of New York.

**PRODUCT:** 35 bags of cocoa sweeps, 16 bags of coffee sweeps, 13 paper bags, 1 jute bag, 1 drum, and 2 cartons of tea sweeps, 1 butt of chilies, 1 bag of ginger, and 1 bag of bulgur, at Brooklyn, N. Y., in the possession of J. Mammano.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects (in the bulgur) and an excessive amount of extraneous filthy material (in the other articles); and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 15, 1953. Default decree of condemnation and destruction.

**SIRUP AND SUGAR\***

**20015. Adulteration and misbranding of sorghum sirup. U. S. v. 401 Cases, etc. (F. D. C. No. 33992. Sample No. 53155-L.)**

**LIBEL FILED:** On or about October 27, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by M. Dawson, from West Monroe, La.

**PRODUCT:** Sorghum sirup. 401 cases, each containing 6 5-pound jars, and 56 cases, each containing 6 10-pound buckets, at Joplin, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose, sucrose, invert sugar, and water had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading; and, Section 403 (i) (2), the product was fabricated from

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\*See also No. 20008.

two or more ingredients, and it failed to bear a label stating the common or usual name of each such ingredient.

**DISPOSITION:** November 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration, or that it be destroyed. The product was relabeled.

**20016. Adulteration and misbranding of sorghum sirup. U. S. v. 19 Cases, etc.**  
(F. D. C. No. 34010. Sample Nos. 53151-L, 53153-L.)

**LIBEL FILED:** On or about October 20, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On a date unknown, by M. Dawson, from West Monroe, La.

**PRODUCT:** Sorghum sirup. 19 cases, each containing 6 ½-gallon jars, 11 cases, each containing 12 ½-gallon cans, and 24 cases, each containing 6 1-gallon cans, at Springfield, Mo.

**LABEL, IN PART:** "Sorghum Made For and Guaranteed By M. Dawson & Son Springdale, Arkansas \* \* \* Made From Sorghum Grain and Cane Juice—Citric Acid Added To Prevent Crystallization."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose, sucrose, invert sugar, water, and a small amount of mineral matter had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and it failed to bear a label stating the common or usual name of each such ingredient.

**DISPOSITION:** November 1952. M. Dawson, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product subsequently was relabeled.

**20017. Adulteration and misbranding of sorghum sirup. U. S. v. 20 Cases \* \* \*.**  
(F. D. C. No. 34203. Sample No. 43870-L.)

**LIBEL FILED:** November 4, 1952, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about July 1, 1952, by Ray Sloan, from Van Buren, Ark.

**PRODUCT:** 20 cases, each containing 12 cans, of sorghum sirup at Midwest City, Okla.

**LABEL, IN PART:** "New Crop Sorghum Syrup Made From Pure Cane Juices Net Weight 4¼ Lbs. Liquid Contents 1 Qt., 1 Pt."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of sorghum, sugar sirup, and glucose had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum Syrup" was false and misleading as applied to a mixture of sorghum, sugar sirup, and glucose; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

**DISPOSITION:** December 15, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use.



**20018. Adulteration and misbranding of sorghum sirup. U. S. v. 7 Cases \* \* \*.**  
(F. D. C. No. 34204. Sample No. 16505-L.)

**LIBEL FILED:** November 6, 1952, Northern District of Oklahoma.

**ALLEGED SHIPMENT:** On or about September 23, 1952, by Paul England, from Joplin, Mo.

**PRODUCT:** 7 cases, each containing 12 cans, of sorghum sirup at Tulsa, Okla.

**LABEL, IN PART:** (Can) "Sorghum Made For and Guaranteed By M. Dawson & Son Springdale, Arkansas Liquid Contents: 1 Quart, 1 Pint or over."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2) a mixture of sorghum and glucose had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of sorghum and glucose; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

**DISPOSITION:** November 19, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions for their use.

**20019. Adulteration of cane sugar, brown sugar, and tapioca flour. U. S. v. 55 Bags, etc. (F. D. C. Nos. 33233, 33256. Sample Nos. 36957-L, 36962-L, 37266-L, 38598-L.)**

**LIBELS FILED:** May 5 and 16, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** The products were imported from Peru and Brazil on unknown dates.

**PRODUCT:** 55 110-pound bags of cane sugar, 15 200-pound bags of brown sugar, and 27 100-pound bags of tapioca flour at Brooklyn, N. Y., in the possession of Beard's Erie Basin, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects in the cane sugar, rodent urine, rodent hairs, and insect fragments in the brown sugar, and rodent excreta and rodent urine in the tapioca flour; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 18, 1952. The Kaufman & Vinson Co., New York, N. Y., having appeared as claimant and the cases having been consolidated, judgment of condemnation was entered and the court ordered that the products be released under bond, conditioned that the cane sugar and the brown sugar be re-refined and that the tapioca flour be used in the manufacture of adhesive, under the supervision of the Food and Drug Administration.

## DAIRY PRODUCTS

### BUTTER

**20020. Adulteration of butter. U. S. v. 12 Cartons (756 pounds) \* \* \*. (F. D. C. No. 34184. Sample No. 33739-L.)**

**LIBEL FILED:** October 23, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 8, 1952, by the Belle Springs Creamery Co., from Abilene, Kans.

**PRODUCT:** 12 63-pound cartons of butter at Chicago, Ill. Examination showed that the product contained fly setae, rodent hairs, and feather barbules.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** January 19, 1953. Default decree of condemnation and destruction.

**20021. Adulteration of butter. U. S. v. 6 Cases \* \* \* (and 1 other seizure action).** (F. D. C. Nos. 34176, 34183. Sample Nos. 33841-L, 33842-L.)

**LIBELS FILED:** On or about November 14, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about October 18, 1952, by the Harding Cream Division, from Omaha, Nebr.

**PRODUCT:** 16 cases, each containing 32 1-pound prints, of butter at Detroit, Mich. Examination showed that the product contained mold, insect fragments, fly setae, moth scales, and rodent hairs.

**LABEL, IN PART:** "Capital Brand Butter Packed by Harding Cream Division Omaha, Nebraska."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

**DISPOSITION:** January 20, 1953. Default decrees of condemnation and destruction.

## CHEESE

**20022. Adulteration and misbranding of cheddar cheese. U. S. v. Harlan Dairy Products, Inc., and Jabez H. Harlan. Pleas of guilty. Each defendant fined \$100, plus costs.** (F. D. C. No. 33835. Sample No. 43941-L.)

**INFORMATION FILED:** December 9, 1952, District of Kansas, against Harlan Dairy Products, Inc., Eureka, Kans., and Jabez H. Harlan, president.

**ALLEGED SHIPMENT:** On or about May 24, 1952, from the State of Kansas into the State of Arizona.

**LABEL, IN PART:** "Pasteurized Whole Milk Cheddar Cheese Kansas."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing more than 39 percent moisture and less than 50 percent milk fat had been substituted for cheddar cheese.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cheddar cheese since it contained more than 39 percent of moisture and its solids contained less than 50 percent of milk fat.

**DISPOSITION:** January 12, 1953. Pleas of guilty having been entered, the court fined the corporation \$100, based on count 1 of the information, and the individual defendant \$100, based on count 2 of the information, together with costs.

## FEEDS AND GRAINS

**20023. Adulteration and misbranding of alfalfa meal. U. S. v. 434 Bags \* \* \*.** (F. D. C. No. 34197. Sample No. 160-L.)

**LIBEL FILED:** November 13, 1952, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about August 29, 1952, by the Waterloo Dehydrating Co., from Waterloo, Iowa.

**PRODUCT:** 434 bags of alfalfa meal at Hopkinsville, Ky.



**LABEL, IN PART:** "13% Sun Cured Alfalfa Meal \* \* \* Protein, not less than 13.00% \* \* \* Fiber, not more than 36.00%."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in whole or in part omitted or abstracted from the product; and, Section 402 (b) (2), a product containing low protein and high fiber had been substituted for alfalfa meal.

Misbranding, Section 403 (a) the label statement "Protein, not less than 13.00% \* \* \* Fiber, not more than 36.00%" was false and misleading since the product contained less than the labeled amount of protein and more than the labeled amount of fiber.

**DISPOSITION:** December 15, 1952. The Waterloo Dehydrating Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

**20024. Adulteration and misbranding of cottonseed meal. U. S. v. 80 Bags \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34285, 34286. Sample Nos. 44178-L, 61025-L.)**

**LIBELS FILED:** December 5 and 9, 1952, Eastern and Western Districts of Oklahoma.

**ALLEGED SHIPMENT:** On or about August 25 and September 9, 1952, by Val Tex, Inc., from Brownsville, Tex.

**PRODUCT:** 330 100-pound bags of cottonseed meal at Chickasha and Manchester, Okla.

**LABEL, IN PART:** "Navy Brand 41% Protein Cottonseed Cake and Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product contained sand, an added deleterious substance, which may have rendered it injurious to health; Section 402 (b) (2), sand had been substituted in whole or in part for cottonseed cake and meal; and, Section 402 (b) (4), sand had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (a), the label designation "Cottonseed Cake and Meal" was false and misleading as applied to the product, which contained sand.

**DISPOSITION:** January 15 and March 2, 1953. Default decrees of condemnation and destruction.

## FISH AND SHELLFISH

**20025. Adulteration of frozen ocean perch fillets. U. S. v. 1,441 Cartons \* \* \*. (F. D. C. No. 34369. Sample Nos. 54934-L, 54935-L.)**

**LIBEL FILED:** November 28, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by J. Kozloff Fish Distributors, Inc., from Detroit, Mich.

**PRODUCT:** 1,441 10-pound cartons of frozen ocean perch fillets at Chicago, Ill.

**LABEL, IN PART:** "Frozen Ocean Perch Fillets \* \* \* Davis Bros. Fish Corp. Gloucester, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** January 15, 1953. Default decree of condemnation and destruction.

**20026. Adulteration and misbranding of canned sardines. U. S. v. 1,700 Cases, etc.** (F. D. C. No. 34261. Sample Nos. 42556-L, 42557-L.)

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 20, 1952, the Sea Beach Packing Co., Monterey, Calif., delivered the product to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 2,650 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Cans) "Luna Brand California Sardines Water and Salt Added" or "Unno Brand California Sardines in Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, sardines.

**DISPOSITION:** February 9, 1953. Dale Simmons, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20027. Adulteration and misbranding of canned sardines. U. S. v. 258 Cases \* \* \*.** (F. D. C. No. 34262. Sample No. 42398-L.)

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 19, 1952, the Sea Beach Packing Co., Monterey, Calif., delivered the product to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 258 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Can) "Velera Brand California Sardines in Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, sardines.

**DISPOSITION:** February 13, 1953. P. J. Rhodes & Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20028. Adulteration and misbranding of canned sardines. U. S. v. 1,079 Cases \* \* \*.** (F. D. C. No. 34256. Sample No. 42555-L.)

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 18, 1952, by the Enterprise Packing Co., from Monterey, Calif., to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 1,079 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Can) "AAA Triple A Brand In Tomato Sauce \* \* \* California Sardines."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, sardines.

**DISPOSITION:** January 23, 1953. Ziel & Co., Inc., San Francisco, Calif., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20029. Adulteration and misbranding of canned sardines. U. S. v. 548 Cases \* \* \*. (F. D. C. No. 34254. Sample No. 42553-L.)**

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 20, 1952, by Oxnard Cannery, Inc., Monterey, Calif., to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 548 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Can) "Southern Gem Brand California Sardines."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, sardines.

**DISPOSITION:** January 23, 1953. Francis B. Vohryzek, San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20030. Adulteration and misbranding of canned sardines. U. S. v. 45 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34258, 34259. Sample Nos. 42232-L, 42233-L.)**

**LIBELS FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 19, 1952, Oxnard Cannery, Inc., Monterey, Calif., delivered the product to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 45 cases, each containing 48 15-ounce cans, and 196 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Can) "Rose Bowl Brand \* \* \* In Tomato Sauce Salt Added \* \* \* California Sardines" or "Condor Brand California Sardines In Tomato Sauce Product of U. S. A."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, sardines.

**DISPOSITION:** February 18, 1953. Otis, McAllister & Co., Inc., San Francisco, Calif., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20031. Adulteration and misbranding of canned sardines. U. S. v. 500 Cases**  
\* \* \*. (F. D. C. No. 34263. Sample No. 42399-L.)

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 19, 1952, by the San Xavier Fish Packing Co., from Monterey, Calif., to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 500 cases, each containing 100 5-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies.

**LABEL, IN PART:** (Can) "AAA Triple A Brand in Tomato Sauce \* \* \* California Sardines."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, sardines.

**DISPOSITION:** January 23, 1953. Ziel & Co., Inc., San Francisco, Calif., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20032. Adulteration and misbranding of canned sardines. U. S. v. 421 Cases**  
\* \* \*. (F. D. C. No. 34265. Sample No. 27319-L.)

**LIBEL FILED:** December 2, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 19, 1952, by the Santa Cruz Canning Co., from Moss Landing, Calif., to San Francisco, Calif., for shipment to the Philippine Islands.

**PRODUCT:** 421 cases, each containing 48 15-ounce cans, of sardines at San Francisco, Calif. Examination showed that the product was anchovies, containing little, if any, tomato sauce.

**LABEL, IN PART:** "Fortune Brand California Sardines In Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), anchovies had been substituted in whole or in part for sardines.

Misbranding, Section 403 (a), the label statement "Sardines In Tomato Sauce" was false and misleading as applied to anchovies containing little, if any, tomato sauce.

**DISPOSITION:** January 23, 1953. D. B. Berelson & Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

**20033. Adulteration of canned sardines. U. S. v. 466 Cans \* \* \*. (F. D. C. No. 34268. Sample No. 33839-L.)**

**LIBEL FILED:** December 1, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about October 3, 1952, by the Great A & P Tea Co., from New York, N. Y.

**PRODUCT:** 466 3¾-ounce cans of sardines at Detroit, Mich.

**LABEL, IN PART:** "Topmast Brand Product of Norway \* \* \* Fancy Norwegian Smoked Brisling Sardines in Pure Olive Oil Packed By: A/S Fonnes Preserving Co. Ltd. Bergen Norway."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** January 12, 1953. Default decree of condemnation and destruction.

**20034. Action for declaratory judgment. L. C. Mays Co., Inc., and Lamar C. Mays v. Federal Security Agency, Food and Drug Administration, and E. C. Boudreaux. Complaint dismissed. Appeal taken to Court of Appeals for Fifth Circuit. Appeal dismissed.**

**COMPLAINT FILED:** On or about December 13, 1951, L. C. Mays Co., Inc., New Orleans, La., and Lamar C. Mays, president of the corporation, filed a complaint against the Federal Security Agency, the Food and Drug Administration, and E. C. Boudreaux, Chief of the New Orleans District of the Food and Drug Administration.

**NATURE OF CHARGE:** The complaint alleged that L. C. Mays Co., Inc., and Lamar C. Mays, plaintiffs in the case, bought, sold, stored, and distributed canned oysters and canned shrimp in interstate commerce; that on or about October 16, 1951, Food and Drug Administration inspectors, pursuant to Section 704 of the Federal Food, Drug, and Cosmetic Act, requested of a certain storage company permission to enter its warehouse and inspect canned shrimp which had been shipped in interstate commerce and stored in the warehouse to the account of the plaintiffs; and that the plaintiffs did not object to the entry of the inspectors into the warehouse, but that they did instruct the warehouseman to refuse the inspectors permission to withdraw samples of shrimp for laboratory examination.

The complaint further alleged that the refusal was justified because Section 704 of the Act did not authorize inspectors to obtain samples of foodstuffs for analyses, but that, nevertheless, the plaintiffs were served on or about December 6, 1951, with a "Notice of Hearing" and "Charge Sheet," under Section 305 of the Act, informing the plaintiffs that investigations by the Food and Drug Administration indicated that a violation of Section 301 (f) of the Act, relating to refusal to permit inspection as authorized by Section 704, had occurred for which the plaintiffs were responsible. In the alternative, it was alleged that if sample collection was authorized by law, the statute was unconstitutional, contravening the Fourth Amendment because it permitted unlawful search and seizure, and the Fifth Amendment because it violated the privilege against self-incrimination and was a taking of private property without due process of law.

**PRAYER FOR RELIEF:** That judgment be entered declaring (1) that Section 704 of the Act did not authorize Food and Drug inspectors to obtain for analyses samples of packaged foods during inspection of a warehouse and (2) that the refusal to grant permission for the withdrawal of samples was not a violation of Section 301 (f); and enjoining further administrative action.

**DISPOSITION:** The Government filed a motion for dismissal of the complaint, on the ground that such complaint failed to state a claim on which relief could be granted. On April 16, 1952, the matter came on for argument before the court, at the conclusion of which the court granted the Government's motion for dismissal. The decision was appealed to the United States Court of Appeals for the Fifth Circuit, and on February 13, 1953, the appeal was dismissed by that court, on the ground that the case had become moot as a result of the

United States Supreme Court's decision in the case of *United States v. Cardiff*, 344 U. S. 174 (notice of judgment on food, No. 19380).

**20035. Misbranding of oysters. U. S. v. 340 Cans \* \* \*. (F. D. C. No. 34249. Sample No. 39283-L.)**

**LIBEL FILED:** November 24, 1952, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 20, 1952, by V. L. Evans & Co., from Crisfield, Md.

**PRODUCT:** 2 barrels containing a total of 340 cans of oysters at Scranton, Pa. Examination showed that the product was 4.3 percent short volume.

**LABEL, IN PART:** (Can) "Oysters Standards Content One Pint Evans Oysters."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Content One Pint" was inaccurate.

**DISPOSITION:** January 12, 1953. Default decree of condemnation and destruction.

**20036. Adulteration of canned shrimp. U. S. v. 33 Cases \* \* \*. (F. D. C. No. 34384. Sample No. 45014-L.)**

**LIBEL FILED:** November 28, 1952, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 20, 1952, by the Barre Seafood Co., from Houma, La.

**PRODUCT:** 33 cases, each containing 24 5-ounce cans, of shrimp at Lawrence, Mass.

**LABEL, IN PART:** (Can) "Sea Fare Brand Shrimp."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** January 5, 1953. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20037. Misbranding of canned cherries. U. S. v. 670 Cases \* \* \*. (F. D. C. No. 34272. Sample No. 41028-L.)**

**LIBEL FILED:** December 9, 1952, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about August 21, 1952, by the Varney Canning Co., from Roy, Utah.

**PRODUCT:** 670 cases, each containing 24 1-pound, 3-ounce cans, of cherries at Spokane, Wash.

**LABEL, IN PART:** (Can) "Sonny Boy Brand Red Sour Pitted Cherries."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for pitted canned cherries since it contained an excessive number of pits and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** January 16, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.



**JAMS, JELLIES, AND PRESERVES**

**20038. Misbranding of jellies and jams. U. S. v. Oelerich & Berry Co. and Frank J. Oelerich. Pleas of nolo contendere. Fine of \$600 against defendants jointly. (F. D. C. No. 33807. Sample Nos. 29307-L, 30293-L, 35551-L to 35553-L, incl., 35560-L, 35561-L, 48572-L to 48574-L, incl., 48576-L, 48577-L.)**

**INFORMATION FILED:** November 28, 1952, Northern District of Illinois, against Oelerich & Berry Co., a corporation, Chicago, Ill., and Frank J. Oelerich, president.

**ALLEGED SHIPMENT:** Between the approximate dates of January 28 and March 5, 1952, from the State of Illinois into the States of Montana, Idaho, and North Dakota.

**LABEL, IN PART:** "Oelerich Old Manse \* \* \* Concord Grape [or "Red Raspberry," "Crabapple," "Plum," or "Cherry"] Jelly" and "Oelerich Fruit Maid \* \* \* Strawberry [or "Raspberry" or "Grape"] Apple Jam."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the jellies failed to conform to the definition and standard of identity for the various jellies since they had not been concentrated by heat to such a point that the soluble-solids content of the finished jellies was not less than 65 percent, and, in addition, the crab apple, plum, cherry, and one shipment of the red raspberry jellies were deficient in the fruit juice content; and the jams failed to conform to the definitions and standards of identity therefor since they were deficient in fruit content.

**DISPOSITION:** January 27, 1953. Pleas of nolo contendere having been entered, the court imposed a fine of \$600 against the defendants jointly.

**20039. Misbranding of plum jelly. U. S. v. 76 Cases \* \* \*. (F. D. C. No. 34564. Sample Nos. 44195-L, 44206-L.)**

**LIBEL FILED:** January 23, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about December 18, 1952, by the J. F. Garvey Co., from Lincoln, Nebr.

**PRODUCT:** 76 cases, each containing 6 8-pound, 6-ounce cans, of plum jelly at Midwest City, Okla.

**LABEL, IN PART:** "Garvey's Pure Plum Jelly."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled weight.

**DISPOSITION:** March 31, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and relabeling of the short-weight cans, under the supervision of the Food and Drug Administration.

**VEGETABLES AND VEGETABLE PRODUCTS\***

**20040. Misbranding of canned corn. U. S. v. 103 Cases \* \* \*. (F. D. C. No. 34251. Sample No. 41115-L.)**

**LIBEL FILED:** December 2, 1952, Western District of Washington.

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\*See also No. 20008.

**ALLEGED SHIPMENT:** On or about November 4, 1952, by the Idaho Canning Co., from Nyssa, Oreg.

**PRODUCT:** 103 cases, each containing 24 cans, of corn at Longview, Wash.

**LABEL, IN PART:** (Can) "Ida-Dell Brand Contents 1 Lb. 4 Oz. Cream Style Golden Corn."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled "1 Lb. 4 Oz."

**DISPOSITION:** January 7, 1953. The General Grocery Co., Longview, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20041. Adulteration and misbranding of canned Crowder peas. U. S. v. 23 Cases \* \* \*. (F. D. C. No. 34220. Sample No. 46985-L.)**

**LABEL FILED:** November 17, 1952, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by the Fresh Canning Co., from Spiro, Okla.

**PRODUCT:** 23 cases, each containing 48 cans, of Crowder peas at Alexandria, La.

**LABEL, IN PART:** "Baby Shug Fresh Crowder Peas \* \* \* Contents 1 Lb."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing an excessive amount of water as a packing medium had been substituted in whole or in part for canned peas.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short weight.)

**DISPOSITION:** January 26, 1953. Default decree of condemnation. The court ordered that the product be destroyed or otherwise disposed of by the marshal. The product subsequently was delivered to a State institution for its use.

**20042. Adulteration of frozen chopped spinach. U. S. v. 169 Cases \* \* \*. (F. D. C. No. 34240. Sample No. 46760-L.)**

**LABEL FILED:** November 25, 1952, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 10, 1952, by John Inglis Frozen Foods, from Modesto, Calif.

**PRODUCT:** 169 cases, each containing 24 14-ounce packages, of frozen chopped spinach at New Orleans, La.

**LABEL, IN PART:** (Package) "Buy For Less 19¢ Brand Frozen Fresh Chopped Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for frozen spinach; and, Section 402 (b) (4), water had been added to the article or mixed or packed with it so as to increase its bulk or reduce its quality or strength.

**DISPOSITION:** January 5, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.



**20043. Adulteration of sweet pickle relish and alleged adulteration of sweet pickles. U. S. v. Archie H. Berger (Berger Foods Co.). Plea of not guilty. Tried to the jury. Count 3 dismissed. Verdict of guilty on counts 1 and 2. Fine of \$1,000, plus costs. Judgment affirmed on appeal. (F. D. C. No. 31539. Sample Nos. 32298-L, 32299-L, 32302-L.)**

**INFORMATION FILED:** October 1, 1951, Eastern District of Missouri, against Archie H. Berger, a partner in the partnership of Berger Foods Co., St. Louis, Mo.

**ALLEGED SHIPMENT:** On or about May 3 and 17, 1951, from the State of Missouri into the State of Illinois.

**LABEL, IN PART:** "Our Pride Brand \* \* \* Sweet Pickle Relish Distributed by Meyer-Schmid Grocer Company St. Louis, Mo. Alton, Ill. Bonne Terre, Mo.," "Berger's Sweet Pickle Relish \* \* \* Berger Foods Co. St. Louis, Mo.," and "Tast-Good Brand Sweet Pickles \* \* \* Packed for Empire Distributing Co. St. Louis, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** The defendant entered a plea of not guilty and filed a motion for a bill of particulars. The motion was overruled by the court on December 18, 1951. The case came on for trial before the court and jury on February 4, 1952, and at the conclusion of the testimony on February 6, 1952, count 3 of the information relating to the sweet pickles was dismissed with prejudice, upon motion of the Government's attorney, after which the court delivered the following charge to the jury:

**HARPER, District Judge.** "Gentlemen of the Jury:

"It now becomes my duty to give you instructions as to the law which you will use and be governed by and apply to the facts in this case in reaching your verdict on the questions that are presented to you for your decision.

"In this case, I want to remind you at the outset, although you, from the attitude you have displayed throughout this case, are doubtless well aware of it, you are a part of the administration of justice in this court and a very important part. You are, as the jury in this case, just as much officers of this court as the Judge of this court, and it is just as necessary that you perform your duties as officers and jurors fairly, impartially, and in accordance with the law, as it is that I, as the Judge of this court, or any other officer of this court, so conduct himself.

"You have listened to the evidence and the arguments of counsel in this case with very commendable patience. In approaching and performing your duties, you should have but one purpose. You should have a zeal and a determination to do justice, exact and impartial, between the government on the one hand and the defendant on the other.

"Under the practice in this court, instructions can only be given to you orally, as I am now doing. There is no provision in the law that permits me to give you instructions in any other manner. It is, therefore, necessary that you pay close attention so that you may carry these rules of law to your jury room and there use and apply them to the facts of this case. You should bear in mind that while it may appear from time to time that I am giving you special instructions, that is not correct. I am giving you instructions, and they should be received by you to apply as a whole. Don't attempt to separate them and disregard part of them and use and apply the remainder. They are given to you to be used and applied as a whole.

"There is one other particular in which cases in the Federal Court differ from cases in the state courts, gentlemen of the jury, and that is, your sole duty in this case is to pass upon the guilt or innocence of this defendant under the information which I have presented to you. You have nothing to do with the fixing of the punishment.



"During the course of this trial there has been considerable evidence introduced with respect to Count 3 of the information, which count dealt with Tast-Good Brand sweet pickles, which were consigned to the Litchfield Grocery Company, Litchfield, Illinois. During the course of the trial Count 3 of the information was stricken by the government and taken from your consideration, and you have previously been instructed by the court to disregard all of the evidence introduced in this case with respect to Count 3 of the information. Let me again caution you that in your deliberations you should not consider, and you are not concerned in the least, with the sweet pickles consigned to the Litchfield Grocery Company at Litchfield, Illinois.

"In this case, gentlemen of the jury, you must, of course, bear in mind that you are the sole judges of the credibility of the witnesses and the weight to be given to their testimony, as well as all the evidence and the facts and circumstances concerning the question of products being prepared and packed under insanitary conditions, whereby they may have become contaminated with filth and thereafter introduced into interstate commerce and which have been presented in this trial, but in passing upon the factual issues of the guilt or innocence of this defendant, you should be guided and should determine those matters according to certain rules of law, which it is the duty of the court to give you, and you should accept these rules of law and apply them in deciding the factual issues. You should do that whether you agree with the rules of law that I give you or not.

"You, of course, understand that these rules of law are not original with me, but these are rules of law that have been announced by our supreme court and by appellate courts and found in the statutes, and if there is any error in declaring the law to you, it is the error of the court. It is your duty to follow the law as you receive it from the court.

"If in the course of these instructions, and if during this trial, the court has said or shall say anything that indicates to you how the court might feel or how you think the court feels with respect to the testimony in this case, and that opinion is different from your opinion of the testimony, you are to accept your opinion of the testimony rather than the court's, because it is your sole province to pass on the testimony, and from the testimony you pass upon the credibility of the witnesses, and with that the court has nothing to do, just as you as members of the jury have nothing to do with determining what the law is in this case.

"The court instructs the jury that this prosecution arises under the Federal Food, Drug and Cosmetic Act. The purpose of the Act is to protect the public health and welfare by preventing the mis-use of interstate commerce in conveying to or placing before the consumer, among other things, articles of food which have been prepared and packed under insanitary conditions whereby they may have become contaminated with filth. Thus, the law touches phases of lives and health of people that are largely beyond self-protection.

"In this case the prosecution is based upon statutes—federal law—and those statutes read as follows :

A food shall be deemed to be adulterated if it has been prepared, packed or held under insanitary conditions, whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

That the following acts and the causing thereof are hereby prohibited :

The introduction or delivery for introduction into interstate commerce of any food that is adulterated.

Any person who violates said provision shall be guilty of a misdemeanor and shall on conviction thereof be imprisoned or fined or both.

"These are the statutes upon which the prosecution is based. The information in this case, based on those statutes, omitting the formal commencement, reads as follows :

#### COUNT 1

Archie H. Berger, an individual, at the time hereinafter mentioned partner of Berger Foods Company, a partnership, did, within the Eastern Division of the Eastern District of Missouri, on or about May 3, 1951,



in violation of the Federal Food, Drug and Cosmetic Act, unlawfully cause to be introduced and delivered for introduction into interstate commerce at St. Louis, State of Missouri, in the name of said partnership, for delivery to Alton, State of Illinois, consigned to Meyer Schmid Grocer Co., a number of jars containing a food;

That displayed upon said jars, when caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was certain labeling which consisted, among other things, of the following printed and graphic matter:

OUR PRIDE BRAND

Contents 8 oz.

SWEET PICKLE RELISH

DISTRIBUTED BY

MEYER-SCHMID GROCER COMPANY

ST. LOUIS, MO.

ALTON, ILL. BONNE TERRE, MO.

That said food, when caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was adulterated within the meaning of 21 U. S. C. 342 [402] (a) (4), in that it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

"I will not read to you in full the other count. Count 2 similarly charges that the defendant consigned to Miller Wholesale Grocery Co., Inc., of Belleville, Illinois, on May 17, 1951, a number of jars which were labeled Berger's Sweet Pickle Relish, Contents 1 gallon fancy, Berger Foods Co., St. Louis, Mo.

"Of course, I need scarcely tell you that commerce between states is interstate commerce, and that the transportation of sweet pickle relish from one state to another constitutes the transportation of sweet pickle relish in interstate commerce. In other words, it means commerce between the states.

"First, as I understand it, it is the position of the government as set forth in the two counts of the information that the defendant caused to be introduced or delivered for introduction into interstate commerce food products, namely sweet pickle relish, that were adulterated, in that in each of the two shipments the food had been packed under insanitary conditions whereby it may have become contaminated with filth.

"The defendant, on the other hand, denies each and every one of the charges contained in each of the counts in the information, and as I understand it, it is the defendant's position that the sweet pickle relish, if it was introduced by defendant into interstate commerce, was not prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

"So the charge and position of the government in this case and the position of the defendant present as the real issue for you to pass on as to Count I of the information a very simple matter: Did the defendant cause to be delivered for introduction into interstate commerce at St. Louis, Missouri, in the name of the Berger Food Company, a partnership, for delivery to Meyer-Schmid Grocer Company, Alton, Illinois, a number of jars of sweet pickle relish, contents 8 ounces, which were adulterated, in that they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth?

"And in Count 2, did the defendant cause to be delivered for introduction into interstate commerce at St. Louis, Missouri, in the name of Berger Food Company, a partnership, for delivery to Miller Wholesale Grocery Co., Inc., Belleville, Illinois, a number of jars of sweet pickle relish, contents 1 gallon, which were adulterated, in that they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth?

"Those are the questions for you to pass upon and those are the real issues as to each count of the information—

"The court instructs the jury that there are three general questions involved in this case regarding which you will be required to concern yourselves. The first one pertains to the interstate phase. In that regard, the government has charged as to Count I that the pickle relish was shipped in interstate commerce



from St. Louis, Missouri, to Alton, Illinois; and as to Count 2 that the pickle relish was shipped in interstate commerce from St. Louis, Missouri, to Belleville, Illinois;

"If you find that the foods involved were not shipped by the defendant as charged in the two counts of the information, then it will be necessary for you to return a verdict of not guilty for the defendant on both counts. You may find, for example, in respect to one count that the shipment was not made by the defendant as charged by the government, while in respect to the other count the shipment was made as charged. If you find that the defendant did ship the food in interstate commerce as charged in one of the counts, but did not make the shipments as alleged in the other count, then in respect to that count where you find the shipment was not made as alleged, you should find the defendant not guilty.

"The court instructs the jury that the defendant is charged with causing the introduction, or delivery for introduction, into interstate commerce of the articles of food in this case which have been prepared and packed under insanitary conditions whereby they may have become contaminated with filth. In order to find the defendant guilty of the crimes with which he is charged, it is not necessary for the government to prove that the defendant personally delivered the food products to a carrier or other person for shipment from one state to another. If you find that the defendant caused the introduction of articles of food into interstate commerce which had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth, or if you find that the defendant caused the delivery for introduction of articles of food into interstate commerce which had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth, you may find the defendant guilty.

"The court instructs the jury that if you decide that the pickle products were shipped from St. Louis, Missouri, by the defendant to Illinois as charged in either of the two counts, then in respect to the count where you decide the food was shipped as alleged, it will be necessary for you to determine whether or not the pickle products were prepared and packed under insanitary conditions whereby it may have become contaminated with filth. If you decide that the food products involved in either of the counts were shipped from St. Louis, Missouri, to Illinois and that the food was prepared and packed under insanitary conditions, whereby it may have become contaminated with filth, then in respect to those instances where you so find, there will be a third question for you to determine; that is, whether the defendant, Archie H. Berger, was responsible for such shipment or shipments. If you find that the food which was shipped from St. Louis, Mo., to Illinois, was adulterated because it was prepared and packed under insanitary conditions whereby it may have become contaminated with filth, and that the defendant was responsible therefor, then you should return a verdict of guilty against the defendant on the count or counts where you so find.

"The court instructs the jury that in both of the counts in the information the government charges that Archie H. Berger, an individual, unlawfully caused to be introduced and delivered for introduction into interstate commerce, articles of food which had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth, in the name of Berger Foods Company, a partnership. The only way in which a partnership can act is through the individuals who act on its behalf. The Federal Food, Drug and Cosmetic Act makes 'any individual' who violates this section guilty of a 'misdemeanor.' The commission of a 'misdemeanor' makes all those who share responsibility in the business process resulting in an unlawful interstate shipment guilty. Thus, if you find and believe from the evidence that the defendant, Archie H. Berger, was a co-partner of the Berger Foods Company at the times mentioned in the two counts of the information, and if you further find that the defendant did have a responsible share in the conduct of the business at the times mentioned, taking into consideration the work that he did at the Berger Foods Company, his duties and responsibilities, and the extent to which he controlled or directed the conduct of the business, then you may find the defendant guilty of any or all unlawful interstate shipments made by Berger Foods Company, if you so find. Stating it in another way, it is not necessary that the defendant actually perform the acts which result in the violation of the law so long as he occupies a position of responsi-



bility in the partnership in the furtherance of whose business the violations occurred.

"The court instructs the jury that the intent with which the defendant acted is not a question for your consideration in this case. The government is not required to prove a wrongful intent or an awareness of wrongdoing. It is not necessary for you to find that the defendant intended to ship in interstate commerce articles of food which had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth. The question of whether the defendant acted in good faith is not material. It is sufficient for a finding of guilt that the government prove, beyond a reasonable doubt, that the defendant was responsible for shipping articles of food in interstate commerce which had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth. It is the responsibility of the person or persons who use the channels of interstate commerce for the distribution of food to be assured that such food has not been prepared and packed under insanitary conditions whereby it may have become contaminated with filth. The statute places the burden of acting, at their own risk, upon persons who ship food in interstate commerce; it does not place a risk upon the public who are largely helpless in this regard.

"The court instructs the jury that it is the contention of the government that the food products mentioned in the two counts of the information in this case were prepared and packed under insanitary conditions immediately or within a very few days before the dates of the alleged respective shipments, to-wit, one shipment on May 3, 1951, and one shipment on May 17, 1951.

"Thus it will be necessary for you to determine beyond a reasonable doubt and to a moral certainty from all the evidence in this case before you can find the defendant guilty of either or both of the counts in the information, not only that the conditions existing in the plant at the times of the inspection on May 21, 1951, were insanitary, but that the conditions at the plant were substantially the same at the respective times the foods involved in either or both of the two counts in the information were prepared and packed.

"This information which was filed against this defendant constitutes no evidence whatsoever of defendant's guilt and is not to be considered by you in that connection whatever. The information is merely the formal charge by which the criminal case such as this is brought into court. Its sole function is to identify the offense with which the defendant is here charged. If upon consideration of all the evidence there is a reasonable doubt of the guilt of the defendant remaining, the accused is entitled to the proof of that doubt by an acquittal, for it is not sufficient to establish a probability of guilt, but the evidence must establish the truth of the charge to a reasonable and moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of the jurors who are bound to act conscientiously upon it.

"The term 'reasonable doubt' which I have just used has a very definite meaning, and I will tell you what it means. A reasonable doubt, gentlemen of the jury, is a doubt based on reason, and which is reasonable in view of all the evidence. If, after an impartial comparison and consideration of all the evidence, you candidly can say that you are not satisfied of the defendant's guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence, you truthfully can say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in some weighty and important matter relating to your own affairs, you have no reasonable doubt. Putting it another way, a reasonable doubt means a substantial doubt, and not the mere possibility of innocence.

"This rule on the meaning of reasonable doubt applies to every material element of the offense charged by the information. Of course, there is almost always difficulty in proving a fact to an absolute certainty, a complete certainty; therefore, I remind you that a reasonable doubt does not mean a mere possibility of innocence, imaginary doubt, mere conjecture. So, I summarize: The defendant is entitled to any reasonable doubt you may have in your minds as to his guilt, and as to each count of the information this applies, and if there is a reasonable doubt, he is entitled to an acquittal at your hands as to each count of the information to which that applies, and at the same time, remember, gentlemen, also, that if you have no such reasonable doubt



as to the guilt of the defendant, as to each count of the information, then the government is entitled to a verdict at your hands as to each count as to which you have no reasonable doubt. You must keep in mind in passing on the guilt or innocence of the defendant when you retire to your jury room that each of the two counts of the information constitutes a separate charge, and each count of the information should be considered by you in arriving at the guilt or innocence of the defendant, separately. Under the evidence you must find the defendant guilty or not guilty as to each count of the information, and these instructions apply as to each count of the information, just as though the defendant were not charged in other counts, as though one count in the information. You may find the defendant guilty or not guilty on either of the counts of the information, as under the evidence and these instructions you conclude it is your duty to do.

"There are two kinds of evidence, direct and circumstantial evidence. The charge against the defendant in this case may be proven by either direct or circumstantial evidence. Whether they have so proven is for you to decide. The evidence presented in this case is what is termed circumstantial evidence, as distinguished from direct evidence.

"The weight to be given to circumstantial evidence can be stated very simply, and the rule is this: In order to justify a jury in finding a verdict of guilty based entirely on circumstantial evidence, the facts must not only be consistent with the guilt of defendant, but they must be inconsistent with any other reasonable hypothesis that can be predicated upon the evidence.

"Stated another way: Not only must the facts relied upon to show guilt be proved beyond a reasonable doubt, but such facts must be consistent with all other facts introduced in a chain of circumstances, and such facts must further be inconsistent with any other rational conclusion than that of guilt.

"The guilt of the defendant may be shown by circumstantial evidence. Whether it has been is for you to determine. When circumstantial evidence is relied upon to establish a charge of the character and kind contained in the information, it is not necessary that all the circumstances concur to show the existence of facts sought to be proved by the government, but such circumstantial evidence must be inconsistent with any other rational conclusion.

"So, I say to you, gentlemen of the jury, that you are to consider all the circumstances and conditions shown in the evidence, and if it appears to you, even though there is no direct evidence of the actual commission by the defendant of the offenses charged in the two counts of the information, a reasonable inference from all the facts and circumstances does, to your minds, beyond a reasonable doubt, show the defendant guilty of the offenses charged in the information, and as to each count, you should make your deductions accordingly. As to Count 1 of the information, if the evidence fails to convince you beyond a reasonable doubt of the defendant's guilt, you should find the defendant not guilty, and the same rule applies as to each of Counts 2 and 3 of the information.

"The government does not charge that the shipments were prepared and packed under insanitary conditions whereby they may have been rendered injurious to health, nor does the government charge that said shipments consisted in whole or in part of any filthy, putrid or decomposed substance or was otherwise unfit for food.

"You are instructed that you cannot find defendant guilty of having prepared and packed the shipments under insanitary conditions whereby they may have become contaminated with filth, unless you find that the evidence established beyond a reasonable doubt and to a moral certainty that the actual conditions under which the food was prepared and packed were insanitary to such a degree that contamination with filth would follow.

"You are instructed that failure of the defendant here to take the stand and testify in his behalf raises no presumption against him. The government must prove each and every material allegation in the information beyond a reasonable doubt and to a moral certainty, and there is no duty upon defendant to disprove the government charges. Defendant is not obliged to testify, unless he desires to. He may testify if he wishes and if he does not he cannot be prejudiced because of that fact.

"The words 'insanitary conditions' as used in this instruction are construed to have their usual and ordinary meaning, and should not be confined to any scientific or medical definition.



"The word 'filth' as used in this instruction is construed to have its usual and ordinary meaning, and should not be confined to any scientific or medical definition.

"You have observed that there has been considerable testimony in this case, which may be properly designated as 'Expert Testimony'; that is to say, the testimony of persons skilled in some art, trade, or science, or who have knowledge and experience in relation to matters which are not within the knowledge of men of common education and experience.

"You are instructed that such opinion evidence as has been given in this case is competent evidence for your consideration, and in your deliberations you are entitled to give to such evidence such weight and value as you may think it entitled, measured by the same standard as you would weigh the evidence of any other competent witness in the case.

"In judging of the evidence, you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling of sympathy or other bias, to apply a strained construction, one that is unreasonable, in order to justify a certain verdict when, were it not for such feeling or bias, you would reach a contrary conclusion. And whenever, after a careful consideration of all of the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is a reasonable doubt as to whether the evidence is so balanced, the conclusion of innocence must be adopted.

"You are the sole judges of the credibility of the witnesses, and the weight to be given to their testimony. In weighing and reconciling the testimony, you should look to the demeanor and the manner of the witness testifying, his or her willingness or unwillingness to answer; to the lack of interest, or interest, of any witness in the case; to the relationship of any witness to the parties in the case; to the means of knowledge or lack of knowledge of the facts about which the witness testifies; to the opportunity of the witness to know the facts about which he purports to testify; to the reasonableness or unreasonableness of the testimony of the witness; to its probability or improbability, and whether the witness has made contradictory statements or not, about material matters involved in this case; and having thus carefully considered all the matters, you must fix the weight and value of the testimony of each and every witness and of the evidence as a whole.

"If you should conclude that a witness has willfully testified falsely to some material matter in the case, you should consider that in determining the credibility of the rest of such witness' testimony, and you are at liberty to reject all of such witness' testimony, as well as the part which you feel to have been willfully false.

"I do not mean to say to you that any witness has willfully testified falsely to any material matter in this case. I give you the rule, that you may use it as in your good judgment the facts in this case warrant and justify.

"Counsel in arguing this case have commented upon the facts of the case. That is their privilege, and that is perfectly proper for them to do so; but if you find any variance between the facts as testified to by the witnesses and as have been stated by either counsel in arguing the case, then you should disregard anything that is said by counsel as to the facts of this case which you believe to be at variance from what the witnesses testified to.

"Generally speaking, you, without doubt, have recognized that what I have said to you regarding the manner in which you should pass on the testimony of the various witnesses and things you should consider, that it simply means that you should use your own good judgment and sound common sense, just as you would in acting upon the most vital and important matters pertaining to your own affairs. Pass on the facts of this case in the light of your own knowledge of the natural tendencies and propensities of human beings.

"Based solely on the evidence and under these instructions, free of any prejudice, sympathy, or bias, reach a verdict in this case. Carry on your deliberations, gentlemen, in a calm, cool and deliberate manner. You should freely consult with one another in your jury room in discussing any one of the issues. If any one of you should be convinced in his own mind that his view on the factual issues or factual issue in the case is erroneous, then such juror should not be stubborn, such juror should not hesitate to abandon a view, if the juror is convinced it is erroneous. It is entirely proper, it is a juror's duty to adhere to a view or conclusion which, in the juror's mind,



after a full exchange of ideas and discussions, the juror believes to be correct and right, but no juror should substitute or accept the opinion of other jurors for his own opinion merely for the sake of expediency.

"When all of you agree to a verdict, then the verdict is the verdict of you as a jury. Your verdict must be unanimous. You will find a form of verdict to take with you to your jury room. It reads as follows:

We, the jury in the above entitled cause, upon the trial of the information herein, as to defendant, Archie H. Berger, find as follows:

We find the defendant, Archie H. Berger, -----, as charged in Count 1 of the information.

"Into that blank you will write 'guilty' or 'not guilty' as you find on Count 1 of the information.

"You will find a like blank as to Count 2 of the information, and as you find the defendant guilty or not guilty as to each of the counts of the information, you will insert your finding in the blank; and you will find a place for the foreman alone to sign the verdict as such.

"When you retire to your jury room to deliberate on this case, you will select one of your number as foreman; and he will sign the form of verdict and represent you as spokesman in any further conduct in this court of this case.

"I will give you the information in this case to take to the jury room with you, simply and solely to identify the charge, and if, during the course of your deliberations, you decide that you want any or all of the exhibits that were introduced, simply notify the bailiff by giving him a note, and whom you will find outside your door, and any exhibits you call for will be given to you."

A verdict of guilty as to counts 1 and 2 relating to the pickle relish was returned by the jury on February 6, 1952. The defendant then filed motions for a judgment of acquittal and for a new trial. On March 6, 1952, the court overruled these motions and imposed a fine of \$1,000, plus costs, against the defendant.

A notice of appeal to the United States Court of Appeals for the Eighth Circuit was filed by the defendant on March 14, 1952, and on December 30, 1952, after consideration of the briefs and arguments of counsel, the following opinion was handed down by that court, affirming the judgment of the district court:

COLLET, *Circuit Judge*: "Defendant was charged in three counts with unlawfully causing to be introduced and delivered for introduction into interstate commerce a number of cases of pickles and pickle relish in jars, which were adulterated within the meaning of 21 U. S. C. 342 [402] (a) (4) in that they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth. The three counts related to separate shipments, one made on May 3, 1951, and two on May 17, 1951. At the close of the Government's case the Government dismissed the third count of the information. Motion to dismiss Counts One and Two was made by defendant at the close of the Government's case on the grounds that the information did not state facts sufficient to constitute an offense and that the statute upon which the information was based is unconstitutional. A separate motion for judgment of acquittal was made upon the ground that the evidence was insufficient to sustain a conviction. These motions were overruled. The defendant offered no evidence. The case was submitted to a jury which returned a verdict of guilty on both counts. After the verdict, the motion for judgment of acquittal on the ground of the insufficiency of the evidence was renewed and again overruled. Judgment and sentence followed, from which this appeal is prosecuted. Only two questions are presented on this appeal. Defendant challenges (1) the constitutionality of the statute, and, (2) the sufficiency of the evidence.



"Unconstitutionality of the statute<sup>1</sup> is asserted upon the ground that it is so indefinite, uncertain and obscure that it does not inform one accused thereunder of the nature and cause of the accusation in violation of the Sixth Amendment to the United States Constitution.<sup>2</sup>

"The constitutional test of definiteness and certainty of the language used in a statute defining a criminal offense has been frequently stated. Reference to only a few of the cases will sufficiently demonstrate the rule.

"In *United States v. Brewer*, 139 U. S. 278, 288:

Laws which create crime ought to be so explicit that all men subject to their penalties may know what acts it is their duty to avoid. (Citing *United States v. Sharp*, Pet. C. C. 118.)

"In *Connally v. General Const. Co.*, 269 U. S. 385, 391, it is stated thus:

That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law. *International Harvester Co. v. Kentucky*, 234 U. S. 216, 221; *Collins v. Kentucky*, 234 U. S. 634, 638.

"And in *United States v. Cohen Grocery Co.*, 255 U. S. 81, 89:

The \* \* \* inquiry \* \* \* is the certainty or uncertainty of the text in question, that is, whether the words \* \* \* constituted a fixing by congress of an ascertainable standard of guilt and are adequate to inform persons accused of violation thereof of the nature and cause of the accusation against them.

"In the late case of *Jordan v. De George*, 341 U. S. 223, the Chief Justice, speaking for the Court, said:

The essential purpose of the "void of vagueness" doctrine is to warn individuals of the criminal consequences of their conduct. \* \* \* This Court has repeatedly stated that criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law.

\* \* \* \* \*

We have several times held that difficulty in determining whether certain marginal offenses are within the meaning of the language under attack as vague does not automatically render a statute unconstitutional for indefiniteness. *United States v. Wurzbach*, 280 U. S. 396, 399 (1930). Impossible standards of specificity are not required. *United States v. Petrillo*, 332 U. S. 1 (1947). The test is whether the language conveys sufficiently definite warning as to the proscribed conduct when measured

<sup>1</sup> "SEC. 331. Prohibited acts.

The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded."

"SEC. 333. Penalties—Violation of Section 331.

(a) Any person who violates any of the provisions of section 331 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine."

"SEC. 342. Adulterated food.

A food shall be deemed to be adulterated—

\* \* \* \* \*

(a) \* \* \* (4), if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; \* \* \*."

21 U. S. C. A.

<sup>2</sup> "In all criminal prosecutions, the accused shall enjoy the right to \* \* \* be informed of the nature and cause of the accusation; \* \* \*."



by common understanding and practices. *Connally v. General Construction Co.*, 269 U. S. 385 (1926).

"It should be noted that the statute in question is designed to prohibit the introduction or delivery for introduction into interstate commerce of food, etc., which is adulterated. In aid of that objective it defines an adulterated food as that which '\* \* \* has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.' It is clear that the congressional intent is to make it a criminal offense for a person to prepare, pack or hold food under such insanitary conditions that it may become contaminated. It is not necessary that it actually become contaminated. Stated in the language of Chief Justice Stone in *Corn Products Co. v. Federal Trade Commission*, 324 U. S. 726, 738, the statute is designed to prevent adulterations 'in their incipency' by condemning insanitary conditions which *may* result in contamination.

"It is clear from an examination of *United States v. Lexington Mill & Elevator Co.*, 232 U. S. 399, *Standard Fashion Co. v. Magrane-Houston Co.*, 258 U. S. 346, and *Corn Products Co. v. Federal Trade Commission*, *supra*, that the clause—'whereby it may have become contaminated'—is not to be construed to mean that criminality may be predicated upon proof of an insanitary condition which gives rise to a 'mere possibility' of contamination. The condition condemned by the statute, which must be proved to support a conviction, is one which would with reasonable possibility result in contamination. *Federal Trade Commission v. Morton Salt Co.*, 334 U. S. 37, 46. Such construction placed upon the words 'which may render such articles injurious to health' resulted in the statute being impervious to attack on constitutional grounds. *United States v. Lexington Mill & Elevator Co.*, *supra*. That is also true of the statute now under consideration.

"In the light of the foregoing construction of the statute, does it convey a sufficiently definite warning of what conduct will constitute a crime? Its plain meaning is that no one shall prepare, pack or hold food, in this instance pickle relish, for introduction or delivery for introduction into interstate commerce under conditions which would with reasonable possibility result in the food becoming contaminated with filth.

"It is contended that because the statute leaves open for determination the *degree* of insanitation which would possibly or probably result in contamination, it does not meet the test of definiteness. Or, as the argument was put in *Nash v. United States*, 229 U. S. 373, estimates of the degree of dirtiness and lack of sanitation which would probably or with reasonable possibility bring about the prohibited result might differ and a man might find himself in prison because his honest judgment did not anticipate that of a jury of less competent men. But the law is full of instances where a man's fate depends on his estimating rightly, that is, as the jury subsequently estimates it, some matter of degree. The criterion of criminality is to examine whether common social duty would, under the circumstances, have suggested a more circumspect conduct. *Nash v. United States*, *supra*. As illustrated in the Nash case:—'An act causing death may be murder, manslaughter, or misadventure, according to the degree of danger attending it by common experience in the circumstances known to the actor.' The perpetrator of the act must be held responsible for estimating what the jury may determine was the probable result of his act. No constitutional infirmity results when a statute imposes that burden. *Nash v. United States*, *supra*.

"The argument is advanced that the statute is void for indefiniteness and uncertainty because it contains no definition of 'insanitary conditions' and without such a definition no intelligent person can tell in advance when a condition violates the statute. We do not agree. The terms 'insanitary conditions' and 'contaminated' are descriptive terms commonly used and understood. True, there are degrees of insanitary conditions, some worse than others. And there are degrees of contamination. But both define a condition. And as heretofore demonstrated, the fact that a statute contains in its definition an element of degree as to which estimates may differ does not result in unconstitutional indefiniteness or uncertainty. When the terms 'insanitary conditions' and 'contaminated' are read with the qualifying word 'filth,' all become possessed with a more definite meaning. Impossible standards of specificity are not required. *Jordan v. DeGeorge*, *supra*. It is



difficult to think of a more apt way to say that one should not prepare food under conditions whereby it would probably be filthy. Any reasonably intelligent person should know what that means. The statute is not subject to this attack.

"Defendant contends that the evidence was insufficient to sustain the verdict. Defendant, a partner in the business of making pickles at a plant in St. Louis, Missouri, was charged specifically with unlawfully causing to be introduced and delivered for introduction into interstate commerce, in the name of the partnership, for delivery to named consignors in Illinois, a number of jars containing food, to wit, sweet pickle relish, which was adulterated in that it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth. An inspection of defendant's plant was made by an inspector for the Food and Drug Administration on May 21, 22, and 23, 1951. On May 29, 1951, the three shipments involved in the three counts of the information were seized at the place of business of the consignees in Illinois and later analyzed by government analysts. There is no contention that the seized shipments were not made at defendant's plant and shipped therefrom on May 3, 1951, and May 17, 1951. There is no question from the evidence of the insanitary condition of the plant on the dates the inspections were made. Defendant's argument is based on the fact that no government witness saw the shipments in question prepared, canned in glass jars and shipped, and that the testimony relative to the conditions existing on May 21, 22, and 23, and the analysis of the contents of the shipment was insufficient to show beyond a reasonable doubt that the plant was in an insanitary condition on the dates of the shipments, May 3 and May 17.

"The evidence shows the following facts. The plant is housed in a brick building 60 feet wide and 150 to 200 feet long from north to south. Pickle stock is brought into the plant by railroad car through a large door. The brick walls contain approximately 200 unscreened glass windows. The glass in 20 or 25 has been broken out. Pigeons fly in and out. Sometimes they are shot and killed inside the plant. The outside doors are unscreened. The relish-making area is located in the south end of the building. The plant was not operated continuously. Orders were made up as received. Canning operations were suspended at intervals between orders. At the time of the inspections on May 21 and 22 no pickles were being canned. The hopper of the pickle chopper was rusted and corroded, the shaft rusted and grease was running down the shaft onto the cutting blades of the chopper. The chopper was so constructed that the chopped pickle material fell from the chopper onto a wooden trough which conveyed it into a vat on a lower level. Pickle relish material remaining from the last operation was imbedded in cracks in the wooden trough. In the relish-making area was a wooden table covered with dust, stained material, and its supporting structure was encrusted with spider webbing. In that area were 16 uncovered barrels of pickles and one barrel of onions. Vinegar flies were flying over the uncovered barrels, spider webbing partially covered the openings of six barrels approximately full of pickles, a spider was in the webbing above one barrel, houseflies rested on pickles in another barrel, on each pickle floating on top of the solution in another barrel there were two or three vinegar flies, bird feathers floating in the solution in another barrel, moldy pickles in two barrels, and a spider climbing over the pickles in another. In addition to the barrels, large vats approximately six feet in diameter and five feet high were used in the making of defendant's product. In two of these vats were pickles not in solution. Those pickles were covered with a whitish and grayish mold approximately one-half inch thick. There was a railroad car in the plant at the time of the inspection on May 21. On the railroad car there were wooden vats and in the vats were pickles in solution. In this solution were particles of sticks, grass, muddy pickles, and particles which resembled insects. On the outside of the plant were a number of vats, one partially full of pickles, some entirely or partially filled with water. Sticks and other foreign material were in the water. Trash and pickles in various stages of decomposition were on the ground around these vats. At another location inside the plant were other larger wooden vats, eight to ten feet in diameter. In some of them were pickles in solution, some were empty, none were covered. Pickles were scattered around the vats, some in reasonably sound condition, others in various stages of decomposition. The pigeons heretofore referred to appear to have had access to a large part



if not all of the area inside the plant. They were not trained pigeons and were not housebroken. The result of their habitation in the plant was what would reasonably be expected.

"It is defendant's theory of the law that these conditions cannot be presumed to have existed when the seized shipments were canned and shipped. As to the time they were canned there was evidence permitting the inference that the canning took place about the time of the shipments. There is no dispute that the shipments involved in Counts One and Two were made on May 3 and May 17, 1951, respectively. The evidence describing the conditions on May 21, 22, and 23, in some particulars justified an inference that those conditions had existed for a considerable period of time. But there was additional and more direct evidence of what the conditions were in the plant at the time the shipments in question were canned and shipped. The analysis of the contents of the seized shipments showed that the jars contained, in addition to pickle relish, fragments of a fly skin, part of a fly's leg, a number of mites, part of a beetle wing, a moth scale, fragments of feathers and fragments of rodent hair. The evidence was not insufficient to support the verdict.

"The judgment is affirmed."

### TOMATOES AND TOMATO PRODUCTS

**20044. Adulteration of canned tomatoes. U. S. v. 167 Cases \* \* \*. (F. D. C. No. 34379. Sample No. 37077-L.)**

**LIBEL FILED:** November 28, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 2, 1951, from Drawbridge, Md.

**PRODUCT:** 167 cases, each containing from 18 to 48 1-pound, 3-ounce cans, of tomatoes at Bayonne, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 26, 1953. Default decree of condemnation and destruction.

**20045. Adulteration of canned tomatoes. U. S. v. 95 Cases \* \* \*. (F. D. C. No. 34381. Sample No. 39449-L.)**

**LIBEL FILED:** December 4, 1952, Eastern District of North Carolina.

**ALLEGED SHIPMENT:** On or about September 4, 1952, by Harwell Bros. & Gibbs, from Petersburg, Va.

**PRODUCT:** 95 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Weldon, N. C.

**LABEL, IN PART:** (Can) "Cypress Farm Brand \* \* \* Tomatoes Packed By Garner Bros., Lewisetta, Va."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 10, 1953. Default decree of condemnation and destruction.

**20046. Misbranding of canned tomatoes. U. S. v. 87 Cases \* \* \*. (F. D. C. No. 34276. Sample No. 43926-L.)**

**LIBEL FILED:** On or about December 3, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by the Smith Canning Co., from Clearfield, Utah.

**PRODUCT:** 87 cases, each containing 24 cans, of tomatoes at Kansas City, Mo.



**LABEL, IN PART:** (Can) "Good Value Brand Contents 1 Lb. 1 Oz. Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "1 Lb. 1 Oz." was inaccurate. (Examination showed that the article was short weight.)

**DISPOSITION:** February 10, 1953. The Fleming Co., Inc., Kansas City, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**20047. Adulteration of tomato juice. U. S. v. 647 Cases \* \* \*. (F. D. C. No. 34389. Sample No. 44740-L.)**

**LIBEL FILED:** November 28, 1952, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 7, 1952, from West Cambridge, Mass. This was a return shipment.

**PRODUCT:** 647 cases, each containing 12 cans, of tomato juice at Clyde, N. Y.

**LABEL, IN PART:** (Can) "Ken-More Brand Tomato Juice Contents 1 Qt. 14 Fl. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 2, 1953. Default decree of condemnation and destruction.

**20048. Adulteration of tomato juice. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 34380. Sample No. 4139-L.)**

**LIBEL FILED:** On or about November 28, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by the Winorr Canning Co., from Circleville, Ohio.

**PRODUCT:** 98 cases, each containing 12 cans, of tomato juice at Baltimore, Md.

**LABEL, IN PART:** (Can) "Plee-Zing Tomato Juice \* \* \* Net Cont. 1 Qt. 14 Fl. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 29, 1952. Default decree of condemnation and destruction.

## MISCELLANEOUS FOODS

**20049. Misbranding of ice cream mix. U. S. v. 5 Cases \* \* \*. (F. D. C. No. 34080. Sample No. 34715-L.)**

**LIBEL FILED:** September 29, 1952, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about July 16, 1952, by Clyde Collins, Inc., from Memphis, Tenn.

**PRODUCT:** 5 cases, each containing 12 cartons, of 48 1-ounce packages of ice cream mix at Little Rock, Ark.

**LABEL, IN PART:** "Collins Mix Use With Sugar and Milk in Making Ice Cream \* \* \* Net Weight One Ounce \* \* \* Contains Dextrose CMC Vegetable Stabilizer, Artificial and True Vanilla Flavor, U. S. Certified Color."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement “Collins Mix Use With Sugar and Milk in Making Ice Cream” was false and misleading since the use of the product with added sugar and milk would not produce a product meeting trade and consumer understanding of “Ice Cream”; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since “CMC Vegetable Stabilizer” is not the common or usual name of sodium carboxymethylcellulose and neither salt nor calcium salt present in the article was declared.

DISPOSITION: October 31, 1952. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for consumption by the inmates.

20050. Adulteration of salt rising yeast. U. S. v. 6 Sacks \* \* \*. (F. D. C. No. 34232. Sample No. 16935-L.)

LIBEL FILED: December 8, 1952, Southern District of California.

ALLEGED SHIPMENT: On or about October 15, 1952, by H. A. Kohman, from Pittsburgh, Pa.

PRODUCT: 6 100-pound sacks of salt rising yeast at Los Angeles, Calif.

LABEL, IN PART: “Kohman’s Salt Rising Yeast.”

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly and other insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 2, 1953. Default decree of condemnation and destruction.

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Candy -----	20009, 20010	Coriander seed-----	20008
Cane sugar-----	20008, 20019	Corn, canned-----	20040
Cereals and cereal products----	20001–	Cottonseed meal-----	20024
	20008, 20014, 20019	Crab apple jelly-----	20038
Cheese -----	20022	Crowder peas, canned-----	20041
Cherries, canned-----	20037	Dairy products-----	20020–20022
Cherry jelly-----	20038	Enriched flour-----	20005
Chick-peas. See Garbanzos.		Feeds and grains-----	20023, 20024
Chilies-----	20014	Fish and shellfish----- <sup>1</sup>	20025–20036
Chocolate malt flavored sirup---	20011	Flour -----	20003–20005, 20019
Cocoa-----	20008	Fruitcake -----	20002

<sup>1</sup> (20034) Action for declaratory judgment dismissed ; appeal dismissed.



	N. J. No.		N. J. No.
Fruits and vegetables__	20008, <sup>2</sup> 20037-20048	Preserves. <i>See</i> Jams, jellies, and preserves.	
fruit, canned_____	20037	Raspberry jelly_____	20038
jams, jellies, and preserves_	20038, 20039	-apple jam_____	20038
tomatoes and tomato prod- ucts_____	20044-20048	Relish, sweet pickle_____	<sup>2</sup> 20043
vegetables and vegetable prod- ucts_____	20008, <sup>2</sup> 20040-20043	Rice _____	20006, 20007
Garbanzos (chick-peas)_____	20008	Salt rising yeast_____	20050
Ginger _____	20014	Sardines, canned_____	20026-20033
Grains. <i>See</i> Feeds and grains.		Shellfish. <i>See</i> Fish and shell- fish.	
Grape jelly_____	20038	Shrimp, canned_____	<sup>1</sup> 20034, 20036
-apple jam_____	20038	Sirup, chocolate malt flavored__	20011
Ice cream mix_____	20049	sorghum _____	20015-20018
Jelly. <i>See</i> Jams, jellies, and pre- serves.		Sorghum sirup_____	20015-20018
Mix, ice cream_____	20049	Spinach, chopped, frozen_____	20042
Oregano leaves_____	20012	Strawberry-apple jam_____	20038
Oysters _____	20035	Sugar, cane_____	20008, 20019
canned _____	<sup>1</sup> 20034	brown_____	20019
Peas, Crowder, canned_____	20041	Tapioca _____	20008
Perch fillets, frozen_____	20025	flour_____	20019
Pickles, sweet, and sweet pickle relish_____	<sup>2</sup> 20043	Tea sweeps_____	20014
Plum jelly_____	20038, 20039	Tomato(es), canned_____	20044-20046
		juice_____	20047, 20048
		Vegetables. <i>See</i> Fruits and vege- tables.	
		Yeast, salt rising_____	20050

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
A. & P. Tea Co.:		Berger, A. H.:	
canned sardines_____	20033	sweet pickle relish and sweet pickles_____	<sup>2</sup> 20043
Barre Seafood Co.:		Berger Foods Co. <i>See</i> Berger, A. H.	
canned shrimp_____	20036	Berko Malted Milk Co., Inc.:	
Beard's Erie Basin, Inc.:		chocolate malt flavored sirup_	20011
cocoa _____	20008	Boudreaux, E. C.:	
beans_____	20008, 20012	canned oysters and canned shrimp_____	<sup>1</sup> 20034
butter_____	20013	Clyde Collins, Inc. <i>See</i> Collins, Clyde, Inc.	
coffee beans_____	20008	Collins, Clyde, Inc.:	
coriander seed_____	20008	ice cream mix_____	20049
garbanzos_____	20008	Davis Bros. Fish Corp.:	
oregano leaves_____	20012	frozen ocean perch fillets_____	20025
sugar, brown_____	20019	Dawson, M.:	
cane_____	20008, 20019	sorghum sirup_____	20015, 20016
tapioca_____	20008		
flour_____	20019		
Belle Springs Creamery Co.:			
butter_____	20020		

<sup>1</sup> (20034) Action for declaratory judgment dismissed ; appeal dismissed.  
<sup>2</sup> (20043) Prosecution contested. Contains charge to the jury and opinion of the court.

	N. J. No.		N. J. No.
Dawson, M., & Son:		Mays, L. C.:	
sorghum sirup-----	20016, 20018	canned oysters and canned	
See also Dawson, M.		shrimp-----	<sup>1</sup> 20034
DiRienzo, F. A.:		Mays, L. C., Co., Inc.:	
bread-----	20001	canned oysters and canned	
DiRienzo Bros. See DiRienzo,		shrimp-----	<sup>1</sup> 20034
F. A.		Meyer-Schmid Grocer Co.:	
Empire Distributing Co.:		sweet pickle relish-----	<sup>2</sup> 20043
sweet pickles-----	<sup>2</sup> 20043	Oelerich, F. J.:	
England, Paul:		jellies and jams-----	20038
sorghum sirup-----	20018	Oelerich & Berry Co.:	
Enterprise Packing Co.:		jellies and jams-----	20038
canned sardines-----	20028	Oswego Candy Co.:	
Evans, V. L., & Co.:		candy-----	20010
oysters-----	20035	Oxnard Cannery, Inc.:	
Fonnes, A/S, Preserving Co.,		canned sardines-----	20029, 20030
Ltd.:		Ross Milling Co. See White-	
canned sardines-----	20033	water Flour Mills Co.	
Fresh Canning Co.:		San Xavier Fish Packing Co.:	
canned Crowder peas-----	20041	canned sardines-----	20031
Garner Bros.:		Santa Cruz Canning Co.:	
canned tomatoes-----	20045	canned sardines-----	20032
Garvey, J. F., Co.:		Sea Beach Packing Co.:	
plum jelly-----	20039	canned sardines-----	20026, 20027
Harding Cream Division:		Sloan, Ray:	
butter-----	20021	sorghum sirup-----	20017
Harlan, J. H.:		Smith Canning Co.:	
cheese-----	20022	canned tomatoes-----	20046
Harlan Dairy Products, Inc.:		Supreme Candy Co. (Wellons	
cheese-----	20022	Candy Co.):	
Harwell Bros. & Gibbs:		candy-----	20009
canned tomatoes-----	20045	United Rice Milling Products	
Idaho Canning Co.:		Co., Inc.:	
canned corn-----	20040	rice-----	20006
Inglis, John, Frozen Foods:		Val Tex, Inc.:	
frozen chopped spinach-----	20042	cottonseed meal-----	20024
Kohman, H. A.:		Varney Canning Co.:	
salt rising yeast-----	20050	canned cherries-----	20037
Kozloff, J., Fish Distributors,		Waldorf Pound Cake Co., Inc.:	
Inc.:		fruitcake-----	20002
frozen ocean perch fillets-----	20025	Waterloo Dehydrating Co.:	
Mammano, J.:		alfalfa meal-----	20023
cocoa sweeps, coffee sweeps,		Whitewater Flour Mills Co.:	
tea sweeps, chilies, ginger,		enriched flour-----	20005
and bulgur-----	20014	Winorr Canning Co.:	
		tomato juice-----	20048

<sup>1</sup> (20034). Action for declaratory judgment dismissed: appeal dismissed.

<sup>2</sup> (20043) Prosecution contested. Contains charge to the jury and opinion of the court.





# THE

# FEDERAL REGISTER

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## THE NATIONAL ARCHIVES FEDERAL REGISTER OF THE UNITED STATES

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U. S. Department of Health, Education, and Welfare

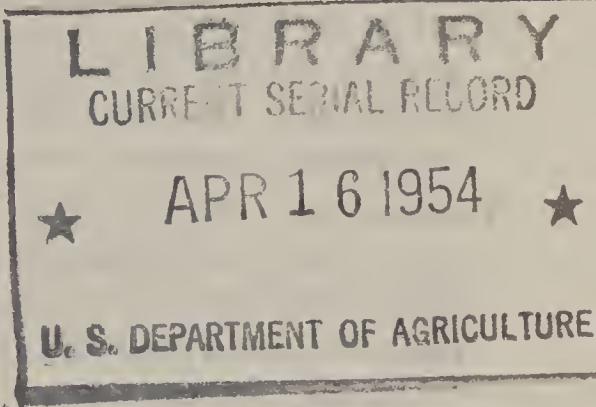
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20051-20100

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *March 19, 1954.*

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20051. Adulteration of cakes.** U. S. v. Modern Grade A Baking Co. and Hyman Sherman and Max Tabachnick. Pleas of guilty. Fine of \$1,000 against company, \$1,000 against Hyman Sherman, and \$200 against Max Tabachnick. Each individual sentenced to 6 months in jail; jail sentence suspended and Defendant Sherman placed on probation for 1 year and Defendant Tabachnick for 5 years. (F. D. C. No. 32806. Sample Nos. 25667-L to 25670-L, incl.)

**INFORMATION FILED:** August 19, 1952, District of New Jersey, against the Modern Grade A Baking Co., a corporation, Garfield, N. J., and Hyman Sherman, president, and Max Tabachnick, secretary and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about November 23, 1951, from the State of New Jersey into the State of Pennsylvania.

**LABEL, IN PART:** "Swan Cake Quality Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** January 30, 1953. Pleas of guilty having been entered, the court fined the corporation \$1,000 and each individual defendant \$1,000. The court also sentenced each individual to 6 months in jail, which sentence was suspended, and placed each on probation for 1 year.

On May 22, 1953, the court ordered that the sentence imposed against Defendant Tabachnick be vacated, reduced the fine previously imposed to \$200, and placed this defendant on probation for 5 years. It was ordered further by the court that, as a special condition of the probation, Defendant Tabachnick permanently cease running a bakery business, directly or indirectly.

**CORNMEAL**

**20052. Adulteration of cornmeal.** U. S. v. 20 Bales \* \* \*. (F. D. C. No. 33317. Sample No. 2310-L.)

**LIBEL FILED:** On or about July 10, 1952, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about May 23, 1952, by Ochlochnee Mills (A. E. Speer, Inc.), from Ochlochnee, Ga.

**PRODUCT:** 20 bales, each containing 5 bags, of cornmeal at Tallahassee, Fla.

**LABEL, IN PART:** (Bag) "10 Lbs. Net Weight Uncle Joe's Old Fashion Sifted Water Ground Style Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects.

**DISPOSITION:** October 29, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**FLOUR**

**20053. Adulteration of flour.** U. S. v. 115 Bags \* \* \*. (F. D. C. No. 34530. Sample No. 19819-L.)

**LIBEL FILED:** January 5, 1953, Northern District of Iowa.



**ALLEGED SHIPMENT:** On or about September 11 and November 19, 1952, from Minneapolis, Minn.

**PRODUCT:** 115 50-pound bags of flour at Mason City, Iowa, in the possession of the Mason City Warehouse Corp.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 9, 1953. Carroll Sales Co., Inc., Mason City, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 489 pounds of the product were found unfit and were denatured.

**20054. Adulteration and misbranding of enriched flour and enriched self-rising flour. U. S. v. Kansas Milling Co. Plea of nolo contendere. Fine of \$400, plus costs. (F. D. C. No. 34305. Sample Nos. 22276-L, 32239-L.)**

**INFORMATION FILED:** December 30, 1952, District of Kansas, against the Kansas Milling Co., a corporation, Cherryvale, Kans.

**ALLEGED SHIPMENT:** On or about September 3, 1951, and January 11, 1952, from the State of Kansas into the States of Missouri and Mississippi.

**LABEL, IN PART:** "Full Value Enriched Flour" or "Enriched Self-Rising Flour  
\* \* \* Full Value Enriched Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents of the articles had been in part omitted, namely, vitamin B<sub>1</sub>, riboflavin, niacin, and (enriched flour only) iron.

Misbranding, Section 403 (a), the labeling of the articles contained false and misleading statements. The statements represented and suggested that 8 ounces of the articles contained not less than 100 percent of the minimum daily requirements of the body for vitamin B<sub>1</sub>, not less than 30 percent of the minimum daily requirements of the body for riboflavin, not less than 8 milligrams of niacin, and (enriched flour only) not less than 65 percent of the minimum daily requirements of the body for iron. 8 ounces of the articles contained less than the above-stated proportions of the minimum daily requirements of the body for vitamin B<sub>1</sub> and riboflavin and less than 8 milligrams of niacin, and 8 ounces of the enriched flour contained less than 65 percent of the minimum daily requirements of the body for iron. Further misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity for enriched flour and enriched self-rising flour since each pound contained less than 2 milligrams of thiamine (vitamin B<sub>1</sub>), less than 1.2 milligrams of riboflavin, less than 16 milligrams of niacin, and (enriched flour only) less than 13 milligrams of iron.

**DISPOSITION:** February 2, 1953. A plea of nolo contendere having been entered, the court fined the defendant \$400, plus costs.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20055. Misbranding of popped popcorn. U. S. v. 31 Cases \* \* \*. (F. D. C. No. 34284. Sample No. 42457-L.)**

**LIBEL FILED:** December 17, 1952, District of Oregon.

- ALLEGED SHIPMENT:** On or about November 11, 1952, by Famous Foods, from Fort Worth, Tex.
- PRODUCT:** 31 cases, each containing 30 bags, of popped popcorn at Phoenix, Oreg.
- LABEL, IN PART:** (Bag) "Tom's Fresh 10¢ \* \* \* Pop Corn Net Wt. 1-½ Ozs."
- NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the bags contained less than the labeled amount; and, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.
- DISPOSITION:** March 3, 1953. Default decree of condemnation and destruction.
- 20056. Adulteration of wheat. U. S. v. 93,600 Pounds \* \* \*. (F. D. C. No. 34496. Sample No. 20208-L.)**
- LIBEL FILED:** December 16, 1952, District of Minnesota.
- ALLEGED SHIPMENT:** On or about December 1, 1952, by the Hettinger Coop. Equity Exchange, from Hettinger, N. Dak.
- PRODUCT:** 93,600 pounds of wheat at Minneapolis, Minn.
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.
- DISPOSITION:** February 4, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring under the supervision of the Federal Security Agency. As a result of the reprocessing operations, 27,960 pounds of the product were found unfit and were set aside for sale as animal feed.
- 20057. Adulteration of wheat. U. S. v. 61,920 Pounds \* \* \*. (F. D. C. No. 34527. Sample No. 20378-L.)**
- LIBEL FILED:** January 7, 1953, District of Minnesota.
- ALLEGED SHIPMENT:** On or about December 11, 1952, by Peavey Elevator, from Ferney, S. Dak.
- PRODUCT:** 61,920 pounds of wheat at Minneapolis, Minn.
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the food and can be avoided by good manufacturing practice; and, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.
- DISPOSITION:** January 13, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be processed into seed, under the supervision of the Federal Security Agency.



**DAIRY PRODUCTS****BUTTER**

**20058. Adulteration of butter. U. S. v. 35 Cartons (approx. 2,222½ pounds)**  
\* \* \*. (F. D. C. No. 34174. Sample No. 56247-L.)

**LIBEL FILED:** January 17, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about January 8, 1953, by the Springfield Creamery Co., from Springfield, Mo.

**PRODUCT:** 35 cartons, each containing approximately 63½ pounds, of butter at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** January 29, 1953. The Merchants Creamery Co., Cincinnati, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Food and Drug Administration.

**20059. Adulteration of butter. U. S. v. 29 Cartons (approx. 1,914 pounds) \* \* \*.**  
(F. D. C. No. 34172. Sample No. 20381-L.)

**LIBEL FILED:** January 12, 1953, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about January 6, 1953, by the Welcome Creamery Co., from Welcome, Minn.

**PRODUCT:** 29 cartons, each containing approximately 66 pounds, of butter at Webster City, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** February 17, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.

**CHEESE**

**20060. Misbranding of colby cheese and cheddar cheese. U. S. v. North Loup Cooperative Cheese Co. and Sunshine C. Hawkes. Pleas of nolo contendere. Company fined \$150 and costs; individual defendant fined \$45.**  
(F. D. C. No. 33852. Sample Nos. 16633-L, 16634-L.)

**INFORMATION FILED:** December 30, 1952, District of Nebraska, against the North Loup Cooperative Cheese Co., a corporation, North Loup, Nebr., and Sunshine C. Hawkes, treasurer and manager.

**ALLEGED VIOLATION:** On or about June 27, 1952, the defendants gave to a firm engaged in the business of shipping cheese in interstate commerce a guaranty to the effect that all products shipped by the defendant to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about July 2 and 9, 1952, the defendants shipped quantities of cheese to the holder of the guaranty, at Omaha, Nebr., which were misbranded.

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for colby cheese and cheddar cheese since the milk used in the manufacture of the products had not been pasteurized and the products had not been cured at a temperature of not less than 35° F. for a period of not less than 60 days, as required by the definitions and standards.

**DISPOSITION:** March 30, 1953. The defendants having entered pleas of nolo contendere, the court fined the corporation \$150 and costs and the individual defendant \$45.

## FEEDS AND GRAINS

**20061. Adulteration and misbranding of dehydrated alfalfa meal. U. S. v. Arlington Dehydrator Co., a corporation, and John D. Gifford. Pleas of nolo contendere. Corporation fined \$400; individual defendant fined \$200. (F. D. C. No. 33810. Sample Nos. 83041-K, 134-L, 143-L, 44214-L.)**

**INFORMATION FILED:** December 19, 1952, District of Nebraska, against the Arlington Dehydrator Co., a corporation, Arlington, Nebr., and John D. Gifford, secretary-treasurer.

**ALLEGED SHIPMENT:** Between the approximate dates of July 21 and September 8, 1951, from the State of Nebraska into the States of Kansas, Indiana, New Hampshire, and Arizona.

**LABEL, IN PART:** "Dehydrated Alfalfa Meal 17% Manufactured By Arlington Dehydrator Co. Arlington, Nebraska Guaranteed Analysis Crude Protein (Min.) 17.00% Crude Fat (Min.) 1.75% Carbohydrates (Nitrogen Free Ext.) (Min.) 35.00% (Fibre) (Max.) 27.00%."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 17 percent of protein and (2 shipments only) more than 27 percent of fiber had been substituted for feed which was represented to contain 17 percent of protein and 27 percent of fiber; (2 shipments only), Section 402 (b) (3), the inferiority of the product, namely, deficiency in protein, had been concealed by the addition of a chemical substance, urea; and, Section 402 (b) (4), a chemical substance, urea, had been added to the product so as to increase its apparent protein content and make it appear of greater value than it was.

Misbranding, Section 403 (a), the label statements "Guaranteed Analysis Crude Protein (Min.) 17.00%" and (2 shipments only) "(Fibre) (Max.) 27.00%" were false and misleading.

**DISPOSITION:** March 5, 1953. Pleas of nolo contendere having been entered, the court fined the corporation \$400 and the individual defendant \$200.

**20062. Misbranding of soybean oil meal. U. S. v. 300 Bags \* \* \*. (F. D. C. No. 34502. Sample No. 14934-L.)**

**LIBEL FILED:** December 17, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about December 2, 1952, by the Galesburg Soy Products Co., from Galesburg, Ill.

**PRODUCT:** 300 bags of soybean oil meal at Kansas City, Mo.

**LABEL, IN PART:** "100 Lbs. Net Triple Value Brand 44% Protein Soybean Oil Meal."



**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The bags contained less than 100 pounds of the product.)

**DISPOSITION:** December 23, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be resacked and brought into compliance with the law, under the supervision of the Federal Security Agency.

## FISH AND SHELLFISH

**20063. Adulteration of canned anchovies. U. S. v. 30 Cases, etc. (F. D. C. No. 34414. Sample Nos. 10603-L, 10604-L.)**

**LIBEL FILED:** December 12, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 23 and October 29, 1952, by the Ancora Trading Corp., from New York, N. Y.

**PRODUCT:** 34 cases, each containing 100  $\frac{3}{4}$ -ounce tins, of canned anchovies at Chicago, Ill.

**LABEL, IN PART:** (Tin) "Rolled Fillets of Anchovies With Capers \* \* \* Jar Brand" or "Mawa Brand \* \* \* Rolled Fillets of Anchovies With Capers."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 9, 1953. Default decree of condemnation and destruction.

**20064. Adulteration of frozen red snappers. U. S. v. 878 Pounds, etc. (F. D. C. No. 34423. Sample Nos. 50020-L to 50022-L, incl.)**

**LIBEL FILED:** December 12, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 10, 1952, from Pensacola, Fla.

**PRODUCT:** 1,364 pounds of frozen red snappers at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 5, 1953. Default decree of condemnation and destruction.

**20065. Adulteration of crabmeat. U. S. v. 349 Cans \* \* \*. (F. D. C. No. 34420 Sample No. 50017-L.)**

**LIBEL FILED:** December 12, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 26, 1952, from Brunswick, Ga.

**PRODUCT:** 349 1-pound cans of crabmeat at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed crabmeat. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 5, 1953. Default decree of condemnation and destruction.

**20066. Adulteration of frozen crabmeat. U. S. v. 267 Cans, etc. (F. D. C. No. 34397. Sample Nos. 50011-L to 50014-L, incl.)**

**LIBEL FILED:** December 18, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 22, 1951, and August 13, 1952, from Oriental, N. C.

**PRODUCT:** 1,602 1-pound cans of frozen crabmeat at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed crabmeat. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 5, 1953. Default decree of condemnation and destruction.

**20067. Adulteration of oysters. U. S. v. 334 Cans \* \* \*. (F. D. C. No. 34509. Sample No. 41810-L.)**

**LIBEL FILED:** December 19, 1952, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about December 16, 1952, by Stowman Bros., from Mauricetown, N. J.

**PRODUCT:** 334 pint cans of oysters at Grand Rapids, Mich.

**LABEL, IN PART:** "Oysters Counts Fres-Shore Fresh Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** January 8, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use and not for sale.

**20068. Adulteration of oysters. U. S. v. 304 Cans \* \* \*. (F. D. C. No. 34451. Sample No. 41806-L.)**

**LIBEL FILED:** December 31, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about December 15, 1952, by Stowman Bros., from Mauricetown, N. J.

**PRODUCT:** 304 pint cans of oysters at Sterling, Ill.

**LABEL, IN PART:** "Oysters Standards \* \* \* Captain Jack's Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** January 27, 1953. The sole intervener having consented to the entry of a decree, the court ordered that the product be destroyed.

**20069. Adulteration of oysters. U. S. v. 84 Cans \* \* \*. (F. D. C. No. 34487. Sample No. 57468-L.)**

**LIBEL FILED:** December 13, 1952, Northern District of New York.

**ALLEGED SHIPMENT:** On or about December 9, 1952, by the Johnson Fish & Oyster Co., from Baltimore, Md.

**PRODUCT:** 84 pint cans of oysters at Binghamton, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.



**DISPOSITION:** January 29, 1953. Default decree of condemnation and destruction.

**20070. Misbranding of oysters. U. S. v. 628 Cans \* \* \*. (F. D. C. No. 34500. Sample Nos. 57470-L, 57471-L.)**

**LIBEL FILED:** December 17, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 15, 1952, by W. F. Morgan & Son, from Weems, Va.

**PRODUCT:** 628 cans of oysters at Portsmouth, Ohio.

**LABEL, IN PART:** "Net Contents One Pint W. F. Morgan & Son Quality Oysters."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short weight.)

**DISPOSITION:** December 19, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for consumption by the inmates.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20071. Misbranding of canned peaches. U. S. v. 1,198 Cases \* \* \*. (F. D. C. No. 34409. Sample No. 56237-L.)**

**LIBEL FILED:** December 8, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 7 and 24, 1952, by the Honee Bear Syrup & Preserving Co., from Lawton, Mich.

**PRODUCT:** 1,198 cases, each containing 24 cans, of peaches at Cincinnati, Ohio.

**LABEL, IN PART:** (Can) "Michigan Made Halves Freestone Peaches In Light Syrup Contents 1 Lb. 12 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned peaches since the weight of some of the peach halves in the container of the article was less than  $\frac{3}{8}$  ounce; the weight of the largest peach half in the container was more than twice the weight of the smallest unit; and there was present in the article more than 1 square inch of peel for each 1 pound of net contents; and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** January 14, 1953. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

### DRIED FRUIT

**20072. Adulteration of prunes. U. S. v. 650 Cases \* \* \*. (F. D. C. No. 34452. Sample No. 37884-L.)**

**LIBEL FILED:** December 22, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by the Harter Packing Co., from Yuba City, Calif.

**PRODUCT:** 650 30-pound cases of prunes at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested prunes, and of a decomposed substance by reason of the presence of moldy prunes.

**DISPOSITION:** February 7, 1953. Default decree of condemnation and destruction.

### FROZEN FRUIT

**20073. Adulteration of frozen strawberries. U. S. v. 1,634 Tins \* \* \* (and 1 other seizure action). (F. D. C. Nos. 33661, 33673. Sample Nos. 29918-L, 29919-L.)**

**LIBELS FILED:** August 29 and September 11, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about August 7 and 8, 1952, by the Diamond Ice & Storage Co., from Seattle, Wash.

**PRODUCT:** 3,375 30-pound tins of frozen strawberries at Detroit, Mich.

**LABEL, IN PART:** "Frigid Food Products, Inc. \* \* \* Whole [or "Sliced"] Strawberries Sugar-Syrup & Sugar 3X1 \* \* \* Packed In Avon, Washington."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.

**DISPOSITION:** February 18, 1953. Frigid Food Products, Inc., Detroit, Mich., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. As a result of segregation operations, 108 tins of the product were found unfit and were destroyed.

### VEGETABLES AND VEGETABLE PRODUCTS

**20074. Misbranding of canned cut green beans. U. S. v. 90 Cases \* \* \*. (F. D. C. No. 34455. Sample No. 52337-L.)**

**LIBEL FILED:** December 23, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 24, 1952, by the Mifflin County Packing Co., from Reedsville, Pa.

**PRODUCT:** 90 cases, each containing 24 1-pound cans, of cut green beans at Kearny, N. J.

**LABEL, IN PART:** (Can) "Gardenside Brand Cut Green Beans."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cut green beans since the de-seeded pods of the article contained more than 0.15 percent by weight of fibrous material and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** January 26, 1953. Safeway Stores, Inc., Jersey City, N. J., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, for the purpose of returning it to the shipper for relabeling under the supervision of the Food and Drug Administration.



**20075. Adulteration of red kidney beans. U. S. v. 30 Bags \* \* \*. (F. D. C. No. 34274. Sample No. 4590-L.)**

**LIBEL FILED:** December 1, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** Between the approximate dates of January 1 and November 21, 1951, from Port Huron, Mich.

**PRODUCT:** 30 100-pound bags of red kidney beans at Charleston, W. Va., in the possession of the Charleston Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and insect excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 13, 1953. The Michigan Elevator Exchange, Lansing, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning, under the supervision of the Federal Security Agency. Attempts were made to recondition the product but were unsuccessful, and it was destroyed.

**20076. Adulteration of Great Northern beans. U. S. v. 37 Cases \* \* \*. (F. D. C. No. 34274. Sample No. 4588-L.)**

**LIBEL FILED:** December 1, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 23, 1951, from Denver, Colo.

**PRODUCT:** 37 cases, each containing 24 1-pound bags, of Great Northern beans at Charleston, W. Va., in the possession of the Charleston Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and insect excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 13, 1953. The Western States Bean Cooperative, Denver, Colo., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Federal Security Agency. As a result of the reconditioning operations, 25 pounds of the product were found unfit and were destroyed.

**20077. Adulteration of Great Northern beans. U. S. v. 97 Bags \* \* \*. (F. D. C. No. 34388. Sample No. 4586-L.)**

**LIBEL FILED:** December 1, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 23, 1951, from Denver, Colo.

**PRODUCT:** 97 100-pound bags of Great Northern beans at Charleston, W. Va., in the possession of the Charleston Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects; and, Section 402 (a) (4), the article had been held under insanitary conditions

whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 13, 1953. The Western States Bean Cooperative, Denver, Colo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Federal Security Agency. Attempts were made to recondition the product but were unsuccessful, and it was denatured for use as animal feed.

**20078. Adulteration of navy beans, cranberry beans, and yellow-eye beans. U. S. v. 2,837 Bags \* \* \*. (F. D. C. No. 34388. Sample Nos. 4589-L, 4591-L to 4595-L, incl.)**

**LIBEL FILED:** December 1, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** Between the approximate dates of January 1, 1951, and October 1, 1952, from Port Huron, Mich.

**PRODUCT:** 167 100-pound bags and 138 25-pound bags of navy beans, 103 cases, each containing 24 1-pound bags, of cranberry beans, and 35 100-pound bags and 25 25-pound bags of yellow-eye beans, at Charleston, W. Va., in the possession of the Charleston Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 13, 1953. The Michigan Elevator Exchange, Lansing, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for reconditioning under the supervision of the Federal Security Agency. As a result of the reconditioning operations, 7,313 pounds of beans were found unfit and were destroyed.

**20079. Adulteration of celery. U. S. v. 432 Crates \* \* \*. (F. D. C. No. 34432. Sample Nos. 36905-L to 36908-L, incl.)**

**LIBEL FILED:** On or about December 17, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 28, 29, and 30, 1952, by the Handel Co., from Lodi, Calif.

**PRODUCT:** 432 crates of celery at Newark, N. J.

**LABEL, IN PART:** (Crate) "Handel \* \* \* California Vegetables."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its discoloration, pithiness, and softening due to freezing.

**DISPOSITION:** January 15, 1953. No claim having been entered except that of the Pennsylvania Railroad asserting a limited interest in the product, default was noted with respect to all others and a decree of condemnation and destruction was entered.

**20080. Adulteration and misbranding of canned spinach. U. S. v. 63 Cases \* \* \*. (F. D. C. No. 34301. Sample No. 33845-L.)**

**LIBEL FILED:** December 11, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about August 16 and October 29, 1952, by the Steele Canning Co., from Springdale, Ark.



**PRODUCT:** 63 cases, each containing 24 1-pound, 11-ounce cans, of spinach at Detroit, Mich.

**LABEL, IN PART:** "Aunt Nellie's Garden Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), pieces of wood and plant particles had been substituted in whole or in part for spinach.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned spinach since the vegetable ingredient of the article was not obtained by preparation from the succulent vegetable in that it had not been cleaned to remove pieces of wood and plant particles.

**DISPOSITION:** February 5, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20081. Adulteration of sweet pickle relish. U. S. v. 32 Cases \* \* \* (and 2 other seizure actions). (F. D. C. Nos. 33942, 33945, 34111. Sample Nos. 66627-L, 66666-L, 66833-L, 66845-L.)**

**LIBELS FILED:** October 21 and November 21, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 22 and October 9 and 22, 1952, by Colony Foods, from Vineland, N. J.

**PRODUCT:** 96 cases, each containing 4 1-gallon jars, of sweet pickle relish at Philadelphia, Pa.

**LABEL, IN PART:** (Jars) "Stricklers' \* \* \* Dove Brand Sweet Relish," "Blue Knot \* \* \* Sweet Relish," or "Colony Brand Sweet Relish."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 26, 1953. Default decrees of condemnation and destruction.

## **TOMATOES AND TOMATO PRODUCTS**

**20082. Alleged adulteration of canned tomatoes. U. S. v. 558 Cases \* \* \*. Tried to the court. Judgment for the claimant. (F. D. C. No. 31997. Sample No. 8932-L.)**

**LIBEL FILED:** On or about November 15, 1951, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 9, 1951, by the Jaqua Canning Co., from Ansonia, Ohio.

**PRODUCT:** 558 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Chicago, Ill.

**LABEL, IN PART:** (Can) "Iona Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** The Jaqua Canning Co., claimant, filed an answer denying that the product was adulterated. Written interrogatories were then served by each of the parties to the action upon each other and subsequently were answered. The case came on for trial before the court without a jury on April

6, 1953. The trial was concluded on April 8, 1953, and on April 22, 1953, the court handed down the following findings of fact and conclusions of law:

BARNES, *District Judge*:

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

"This action having been tried by the Court without a jury, the Court makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

"1. JAQUA COMPANY, an Indiana corporation, shipped in interstate commerce from Ansonia, Ohio, to Chicago, Illinois, via Subler Transfer, Inc., on or about October 9, 1951, an article of food consisting of 558 cases, each containing 24 cans of an article labeled in part:

(Can) Iona Tomatoes Net Wt. 1 Lb. 3 Ozs.

"2. The aforesaid article of food was placed in storage at the warehouse of the Great Atlantic and Pacific Tea Company, 2622 North Pulaski Road, Chicago, Illinois, or elsewhere within the jurisdiction of this Court.

"3. The undistributed portion of the aforesaid article of food, consisting of 253 cases, was seized by the United States of America, libelant, pursuant to 21 U. S. C. 334 (a) while in said warehouse because of alleged adulteration of said article of food within the meaning of 21 U. S. C. 342 [402] (a) (3) in that said article consisted in whole or in part of a filthy substance by reason of the presence therein of fly eggs and maggots.

"4. Prior to seizure an inspector of the Food and Drug Administration collected samples of said article of food consisting of 48 cans of tomatoes, two cans being taken from each of twenty-four cases selected at random from various parts of the shipment. The samples contained the following four codes and no others: TOD 53, TOA 71, TOD 64, TOA 59, which said code numbers identify the canned tomatoes as different lots having been packed on different days during the packing season. This sample was analyzed by two Government chemists for fly eggs and maggots who testified as to the following results:

Code TOD 53 Sub. No.	1	2	3	4	5	6	7	8	9	10	11	12	Average
No. Drosophila													
fly eggs----	2	5	34	0	1	0	1	3	15	0	28	0	7.4
Maggots, 2-4													
mm-----	0	4	2	0	0	0	0	0	2	0	0	1	
Code TOA 71 Sub. No.	13	14	15	16	17	18	19	20	21	22	23	24	Average
No. Drosophila													
fly eggs----	1	6	0	26	44	8	5	5	0	4	1	0	8.3
Maggots, 2-4													
mm-----	0	0	0	1	0	1	0	0	0	0	0	0	
Code TOD 64 Sub. No.	25	26	Average										
No. Drosophila													
fly eggs----	0	3	1.5										
Maggots-----	0	0											
Code TOA 59 Sub. No.	28	29	30	Average									
No. Drosophila													
fly eggs----	1	1	0	0.7									
Maggots-----	0	0	0										

"Later, after the case was at issue, the government applied for leave to, and did, withdraw additional samples. Said samples were analyzed microscopically, and the findings as received in evidence and as appear in the sworn answers to Interrogatories, propounded by the claimant, as amended in Court, are as follows:



<i>Code</i>	<i>Sub. No.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
TOA 34	Dros. fly eggs-----	0	2	2	4	3	0
	Maggots-----	1	0	0	0	0	0
TOA 36	Dros. fly eggs-----	0	0	0	0	0	0
	Maggots-----	0	0	0	0	0	0
TOA 37	Dros. fly eggs-----	0	0	0	1	0	0
	Maggots-----	0	0	0	0	0	0
TOA 39	Dros. fly eggs-----	1	0	0	0	0	1
	Maggots-----	0	0	0	0	0	0
TOA 41	Dros. fly eggs-----	0	1	0	0	0	0
	Maggots-----	0	0	1	0	0	0
TOA 73	Dros. fly eggs-----	2	1	23	2	2	14
	Maggots-----	0	0	0	0	1	1
TOD 51	Dros. fly eggs-----	1	0	0	0	4	1
	Maggots-----	0	0	0	1	0	0
TOD 59	Dros. fly eggs-----	0	1	1	2	0	1
	Maggots-----	1	0	0	0	0	0
TOD 64	Dros. fly eggs-----	5	0	0	17	5	2
	Maggots-----	0	0	0	0	0	0
TOD 86	Dros. fly eggs-----	0	0	0	2	4	1
	Maggots-----	0	0	0	1	0	0
TOD 87	Dros. fly eggs-----	0	3	0	2	0	1
	Maggots-----	0	0	1	0	1	0
TOD 88	Dros. fly eggs-----	1	2	0	1	1	0
	Maggots-----	2	0	0	0	1	0
TOD 91	Dros. fly eggs-----	8	0	2	23	15	5
	Maggots-----	0	0	0	0	0	0
TOA 33	Dros. fly eggs-----	0					
	Maggots-----	0					
TOA 69	Dros. fly eggs-----	0					
	Maggots-----	0					
TOD 84	Dros. fly eggs-----	0					
	Maggots-----	0					

“5. In the course of the trial the government called attention to the fact that its analyses and findings pertaining to code No. TOA 59 were in error, and by stipulation of the parties in open court the correct findings on said code were read into the record, and the answer to the Interrogatories was amended on its face to show the corrected report of the analysis. A combination of the average count of the fly eggs in the samples analyzed, and as reported by the Government in their answers to the Interrogatories, shows an average count on fly eggs to be 2.35 fly eggs in the 110 sample cans withdrawn and analyzed, and an average of .2 larvae per can on the 110 cans withdrawn and analyzed.

“6. The fruit fly, or vinegar gnat, a member of the genus *Drosophila*, is a rapid breeder and frequently, and at certain times of the year, is present in large numbers in fields where tomatoes are grown. The fly is most active in the middle to latter part of the tomato growing season. It prefers to feed on fermenting or yeasty materials, but prefers to lay its eggs in the tissue of sound, cracked fruit. Tests have shown that the exposed flesh of sound, ripe tomatoes is preferred as a place for the fly to deposit its eggs over either the flesh of green tomatoes or tomatoes which have begun to decompose. The cracks in the tomatoes where the eggs are deposited may be either natural growth cracks or cracks caused by mechanical means. The flies deposit eggs, the eggs develop into larvae, the larvae into pupae, and the pupae into flies. The evidence showed that eggs are the stage in the life cycle of the insect that appear most frequently in the finished product. An occasional larva is to be found. No pupae nor flies were found in any samples of the seized product.

“7. No known insecticides will completely eliminate the presence of the fruit fly in the field. It is, therefore, inevitable that during the period of the canning season tomatoes in which eggs have been deposited in the field will reach the cannery. No single procedure, or combination of procedures in the



process of canning tomatoes will completely eliminate and remove the presence of these fly eggs.

"8. One Government witness contended that the presence of fly eggs in canned tomatoes indicated the presence of tomato rot. This contention, however, was not sustained by other competent expert testimony. There was no evidence that any visible rot was present in any of the seized samples. The Government contended that the presence of fly eggs and larvae in canned tomatoes was indicative of insanitary conditions in the cannery, and a failure on the part of those working on the canning line to trim out, sort, or otherwise eliminate defective fruit. A Government expert witness, however, when handed a sound, ripe tomato was unable to tell whether or not it contained any fly eggs. The witness could not even tell whether or not fly eggs were present on the tomato after he had examined it with a hand magnifying glass. The weight of the testimony indicated that there is no correlation between the presence of fly eggs in canned whole tomatoes and tomato rot. It was brought out that a product could have a high mold count, which does indicate the presence of tomato rot, and at the same time contain none or very few fly eggs. The Government did not contend that mold was present in the seized food.

"It was also shown that fly egg counts, even within a given code, can vary widely. This is because one tomato which contained several eggs, which cannot be detected by the unaided eye, can, without carelessness on the part of the packer, get into the finished product, and this single tomato would thereby cause the can in which it was packed to have a much higher count than any other cans of that same code.

"The method for determining the presence of fly eggs used by the analysts for both the Government and for the claimant is the method reported in the Official Methods of Analysis of the Association of Official Agricultural Chemists, 7th Edition, 1950, page 727. This method calls for an examination with a magnification of about 10 diameters.

"9. Government testimony showed that the Federal Food and Drug Administration would not recommend seizure of No. 2 canned tomatoes if the average fly egg count per can for a given code was 4 or less. It would, however, recommend seizure of a code if the average fly egg count per No. 2 can was 5 or more. It was further brought out that this tolerance of 4 had never been made known to the canning industry, and was considered by the Federal Food and Drug Administration as an 'unannounced tolerance' or 'working tolerance.' The Government stated that it recognized no working tolerance for the presence of maggots in canned tomatoes. There is no sound basis to differentiate between fly eggs and maggots, because in the nature of things, if fly eggs are present they are going to hatch into maggots. For practical purposes, fly eggs and maggots are one and the same. It was further established that fly eggs in any number could be present in homogenized or viscolized tomato juice and not render said product subject to seizure.

"10. The seized lot consisted of canned No. 2 whole tomatoes made up of 20 different codes, more or less, each code representing a different day's pack. The seizure was based on the results of the examination of 4 of said 20 codes, 2 of which were found to have fly eggs present in excess of an average of 5 per No. 2 can. Subsequent examinations by the Government analysts revealed that 16 of the 20 codes involved were within the working tolerance established by the Federal Food and Drug Administration. Claimant's analyst, an eminently qualified microanalyst, did not find more than 5 fly eggs present in any single can of tomatoes.

"11. Federal Food and Drug inspectors visited fifty-eight 'suspected' tomato canneries in the States of Ohio and Indiana during the 1951 tomato canning season, and collected samples from each of said plants for the purpose of examining said samples to determine whether or not the products being canned in said canneries complied with the 'working tolerances' of the Federal Food and Drug Administration. Claimant's cannery was not among those visited on this routine check.

"One government inspector, however, did visit claimant's plant in 1951, and orally reported to claimant at the time of said visit that he found no objectionable conditions, and could make no recommendations as to how plant operations could be improved. The claimant has never been involved in any seizure involving adulteration of his product or insanitary conditions in or about his plant.



"12. *Drosophila* fly eggs and maggots present in food for human consumption constitutes filth within the purview and meaning of the Federal Food, Drug, and Cosmetic Act (chapter 21 U. S. C., Section 342 [402] (a) (3)). The presence of a high number of said fly eggs or maggots, however, in a single can of whole tomatoes, when many cans of the same lot or code show none or a trifling amount of eggs and maggots, does not warrant and justify seizure and condemnation of the entire lot or code. The provisions of Chapter 21 U. S. C. Section 336, do not require the administrator to institute libel proceedings for minor violations of the chapter whenever the public interest will be served adequately by a suitable written notice or warning. In this case, no notice or warning, either oral or written, was made by the administrator upon the claimant. The fly eggs and maggot count, found in the samples analyzed, is certainly infinitesimal and inconsequential in quantity, and for the government to libel and seize food in such a case will only serve to prevent the carrying on of commercial canning of tomatoes, and destroy the canning industry. The officers of the Federal Food and Drug Administration should not, in their zeal to enforce the provisions of the Act, impose standards of performance that are unattainable or impractical. In proper instances the provisions outlined in Chapter 21 U. S. C., Section 336, giving appropriate notice and warning to the canner is available to the officers of the government.

#### CONCLUSIONS OF LAW

##### I

"The claimant, THE JAQUA COMPANY, an Indiana corporation, is within the jurisdiction of this Court by voluntary appearance therein.

##### II

"The subject matter of this action is within the jurisdiction of this Court.

##### III

"The 253 cases each containing 24 cans of an article labeled in part, 'Iona Tomatoes Net Wt. 1 Lb. 3 Ozs.,' being the subject of seizure in this proceeding, is not adulterated food within the meaning of the Federal Food, Drug and Cosmetic Act (21 U. S. C. 342 [402] (a) (3)).

##### IV

"Since the proofs and evidence show that none of the tomatoes involved in the seized lot contained substantial amounts of fly eggs and maggots, but that the majority of them contained none, and the balance contained them only in such infinitesimal and inconsequential quantities, which could not be eliminated by the selection of the best fruit available, and the exercise of proper care in the various steps of the canning operation; and since the findings of fly eggs and maggots in the seized samples averaged considerably less than the 'working tolerance' established by the government, I find the issues for the claimant and against the libelant, and find that judgment should issue directing the United States Marshal for the Northern District of Illinois, Eastern Division, to release and deliver said 253 cases of No. 2 cans of tomatoes labeled 'Iona Tomatoes' to the claimant, and that the said United States Marshal should pay the storage charges which have accrued subsequent to date of seizure; and that judgment should enter accordingly."

In accordance with the above findings and conclusions, the court, on April 22, 1953, ordered that the libel be dismissed and that the product be released to the claimant.

20083. Adulteration of canned tomatoes. U. S. v. 1,200 Cases \* \* \*. (F. D. C. No. 34228. Sample No. 56527-L.)

LIBEL FILED: November 17, 1952, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about September 30, 1952, by Albert W. Sisk & Son, from Cambridge, Md.

**PRODUCT:** 1,200 cases, each containing 24 1-pound cans, of tomatoes at Nashville, Tenn.

**LABEL, IN PART:** (Can) "Pine Cone Brand Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** March 9, 1953. Default decree of condemnation and destruction.

**20084. Adulteration of canned tomatoes. U. S. v. 962 Cases \* \* \*. (F. D. C. No. 34158. Sample No. 54340-L.)**

**LIBEL FILED:** November 20, 1952, District of Delaware.

**ALLEGED SHIPMENT:** On or about October 29, 1952, by Thomas Roberts & Co., Inc., from Detroit, Mich.

**PRODUCT:** 962 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Frederica, Del.

**LABEL, IN PART:** (Can) "Pride Of The Farm Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** February 11 and March 3, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**20085. Misbranding of canned tomatoes. U. S. v. 890 Cases \* \* \*. (F. D. C. No. 34515. Sample No. 34765-L.)**

**LIBEL FILED:** December 29, 1952, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about August 20, 1952, by Roberts Bros., Inc., from Baltimore, Md.

**PRODUCT:** 890 cases, each containing 24 15½-ounce cans, of tomatoes at Eudora, Ark.

**LABEL, IN PART:** (Can) "Roberts Big R Brand."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below such standard.

**DISPOSITION:** January 19, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20086. Misbranding of canned tomatoes. U. S. v. 478 Cases \* \* \*. (F. D. C. No. 34419. Sample No. 69193-L.)**

**LIBEL FILED:** December 11, 1952, District of New Mexico.

**ALLEGED SHIPMENT:** On or about September 19, 1952, by the Valley Canning Co., from Canutillo, Tex.



**PRODUCT:** 478 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Albuquerque, N. Mex.

**LABEL, IN PART:** (Can) "Valley Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and did not meet the requirements for color, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** January 14, 1953. The Valley Canning Co., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20087. Misbranding of canned tomatoes. U. S. v. 299 Cases \* \* \*. (F. D. C. No. 34226. Sample No. 3262-L.)**

**LIBEL FILED:** November 17, 1952, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about November 1, 1952, by the Lord-Mott Co., from Baltimore, Md.

**PRODUCT:** 299 cases, each containing 48 10-ounce cans, of tomatoes at Milwaukee, Wis.

**LABEL, IN PART:** (Can) "Iona Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel, and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** March 13, 1953. W. H. Roberts & Co., Baltimore, Md., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

**20088. Adulteration of tomato juice. U. S. v. 142 Cases \* \* \*. (F. D. C. No. 34493. Sample No. 55259-L.)**

**LIBEL FILED:** December 15, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 7, 1952, by the Growers & Packers Coop. Canning Co., from North Collins, N. Y.

**PRODUCT:** 142 cases, each containing 24 cans, of tomato juice at Erie, Pa.

**LABEL, IN PART:** (Can) "Red & White Brand Tomato Juice Contents 1 Quart 14 Flu. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 23, 1953. Default decree of condemnation and destruction.

**20089. Adulteration of tomato juice. U. S. v. 94 Cases \* \* \*. (F. D. C. No. 34440. Sample No. 4144-L.)**

**LIBEL FILED:** On or about December 17, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about September 24, 1952, by the Winorr Canning Co., from Circleville, Ohio.

**PRODUCT:** 94 cases, each containing 24 1-pint, 2-fluid-ounce cans, of tomato juice at Baltimore, Md.

**LABEL, IN PART:** (Can) "Plee-Zing Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 12, 1953. Default decree of condemnation and destruction.

## NUTS AND NUT PRODUCTS

**20090. Adulteration of brazil nuts. U. S. v. 11 Cases \* \* \*. (F. D. C. No. 34269. Sample No. 36027-L.)**

**LIBEL FILED:** December 1, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about December 21, 1951, from New York, N. Y.

**PRODUCT:** 11 cases, each containing 24 1-pound trays, of brazil nuts at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rancid and otherwise decomposed nuts. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 27, 1953. Default decree of condemnation and destruction.

**20091. Adulteration of unshelled walnuts. U. S. v. 1,501 Cases \* \* \*. (F. D. C. No. 34241. Sample No. 14549-L.)**

**LIBEL FILED:** December 8, 1952, District of Colorado.

**ALLEGED SHIPMENT:** On or about October 30, 1952, from Orange, Calif.

**PRODUCT:** 1,501 cases, each containing 50 1-pound bags, of unshelled walnuts at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested walnuts, and of a decomposed substance by reason of the presence of moldy and rancid walnuts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 16, 1953. Wm. A. Higgins & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of reconditioning by shelling and removing the unfit material, under the supervision of the Federal Security Agency. As a result of the shelling and segregation operations, 21,790 pounds of the nut meats were released as satisfactory and the unfit portion of 10,790 pounds was destroyed.

**20092. Action to enjoin and restrain the interstate shipment of adulterated peanut butter and peanut oil. U. S. v. Portales Valley Mills, Inc., and John Burroughs. Consent decree of permanent injunction entered. (Inj. No. 259.)**

**COMPLAINT FILED:** December 22, 1952, District of New Mexico, against Portales Valley Mills, Inc., Portales, N. Mex., and John Burroughs, president of the corporation.

**NATURE OF CHARGE:** That the defendants were engaged in the business of manufacturing and distributing peanut butter and peanut oil and had been and were, at the time of the filing of the complaint, causing the introduction



and the delivery for introduction into interstate commerce of peanut butter and peanut oil which were adulterated under Section 402 (a) (3), in that such products consisted in whole or in part of filthy substances, and which were adulterated under Section 402 (a) (4), in that the products had been prepared, packed, and held under insanitary conditions.

The complaint alleged that examination disclosed that the peanut butter contained insect parts and rodent hairs; that the press cake residue remaining from the oil production and the settlings from the oil settling tanks contained rodent hairs and insect parts, indicating that the peanut oil contained the soluble filth elements from rodent excreta and insects; that the insanitary conditions in the plant where the articles were prepared, packed, and held resulted from, and consisted of, the presence of live and dead rodents, live and dead insects, and rodent excreta on the bags of peanuts used in the manufacture of the articles and in and around places in the plant where the peanuts were stored and held, the presence of rodent pellets upon bags of salt used in the manufacture of peanut butter, and the presence of live and dead rodents and rodent excreta in the plant area where the peanut butter was made; and that the insanitary conditions consisted also of, and resulted from, general carelessness on the part of the defendants and their employees.

The complaint alleged also that the defendants had on hand at their plant a large quantity of adulterated peanuts which, in the usual and ordinary course of business, would be processed into peanut butter and peanut oil for shipment in interstate commerce. The complaint alleged further, on information and belief, that the defendants would continue to introduce and cause to be introduced into interstate commerce, adulterated peanut butter and peanut oil unless restrained by the court.

**DISPOSITION:** On December 22, 1952, the court entered a temporary restraining order enjoining the defendants from shipping in interstate commerce peanut butter and peanut oil adulterated as alleged in the complaint.

On January 9, 1953, the defendants having consented to the entry of a decree, the court entered a decree permanently enjoining and restraining the defendants from introducing, or delivering for introduction, into interstate commerce peanut butter and peanut oil, or any other such article of food, which were adulterated within the meaning of Section 402 (a) (3) and (4).

The decree provided further that the defendants be permanently enjoined and restrained from introducing, or delivering for introduction, into interstate commerce any peanut butter and peanut oil made from the stock of adulterated peanuts which the defendants at that time had on hand, stored, and held at its plant, until such peanuts had been cleaned or otherwise processed under the supervision of the Food and Drug Administration.

## OLEOMARGARINE

**20093.** Action to enjoin and restrain the sale and offering for sale of colored oleomargarine or colored margarine without clear identification as required by law. U. S. v. H. Wool & Sons, Inc. Consent decree of permanent injunction entered. (Inj. No. 242.)

**COMPLAINT FILED:** December 14, 1951, Southern District of New York, against H. Wool & Sons, Inc., New York, N. Y.

**NATURE OF CHARGE:** The complaint alleged that the defendant was engaged in the sale and offering for sale of an article which was invoiced and labeled as butter but which consisted of colored oleomargarine or colored margarine,

and that such sale and offering for sale was prohibited by Section 301 (m). The article was not labeled as required by Section 407 (b) (3) with (A) the word "oleomargarine" or "margarine" in type or lettering on the label at least as large as any other type of lettering on the label, and (B) a full and accurate statement of all the ingredients contained in the oleomargarine or margarine; and the article was not labeled as required by Section 407 (b) (4) in that each part of the contents of the package of the article was not contained in a wrapper which bore the word "oleomargarine" or "margarine" in type or lettering not smaller than 20 point type.

The complaint alleged further that the defendant purchased, on or about September 18, 1951, 146 cartons, each containing 66 pounds, of colored oleomargarine or colored margarine which was invoiced as "bulk butter"; that a portion of the product was printed into chips (50 cartons of 40 pounds each) and into 1-pound prints (33 cartons of 60 1-pound prints each) and labeled as butter; that the remainder of the September 18 purchase had been sold; that the defendant purchased also, on or about September 25, 1951, 188 cartons, each containing 66 pounds, of colored oleomargarine or colored margarine which was invoiced as "bulk butter"; that 100 cartons of such purchase remained in storage in their original containers for the account of the defendant and that the balance of such purchase had been sold; and that analysis of the product contained in the September 18 and 25 purchases disclosed that the product contained a mixture of butter and oleomargarine.

**DISPOSITION:** January 8, 1952. The defendant having consented to the entry of a decree, the court entered an order perpetually enjoining and restraining the defendant from directly, or indirectly, selling or offering for sale colored oleomargarine or colored margarine without clear identification as such, or which was otherwise in violation of Section 301 (m).

**20094. Sale of colored oleomargarine as butter. U. S. v. August Food Products, Inc., and Henry August. Pleas of guilty. Fine of \$500 against each defendant. (F. D. C. No. 33727. Sample Nos. 23938-L, 23941-L.)**

**INFORMATION FILED:** November 5, 1952, District of New Jersey, against August Food Products, Inc., Belleville and Newark, N. J., and Henry August, secretary-treasurer of the corporation.

**ALLEGED VIOLATION:** On or about October 3 and 9, 1951, at Newark, N. J., the defendants sold and offered for sale a number of cartons of colored oleomargarine which was labeled as butter.

**LABEL, IN PART:** "Highest Hanford Quality Unsalted Butter" or "Tiger Bulk Butter."

**NATURE OF CHARGE:** Colored oleomargarine was sold and offered for sale in violation of Section 407 (b) (3), (A) in that the word "oleomargarine" or "margarine" did not appear on the labels of the cartons containing the product; and, Section 407 (b) (3), (B) in that a full and accurate statement of all the ingredients contained in the product did not appear on the labels of the cartons (the labels of the cartons bore no statement of the ingredients contained in the colored oleomargarine).

**DISPOSITION:** March 27, 1953. Pleas of guilty having been entered, the court fined each defendant \$500.



**POULTRY**

**20095. Adulteration of dressed poultry. U. S. v. 1,117 Pounds, etc. (F. D. C. No. 34376. Sample No. 57364-L.)**

**LIBEL FILED:** On or about November 25, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about November 20, 1952, by Harry Friedman, from Wilmington, Del.

**PRODUCT:** 1,417 pounds of dressed poultry at Baltimore, Md.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material.

**DISPOSITION:** December 17, 1952. Default decree of condemnation. The court ordered that the good portion be segregated from the bad by the Food and Drug Administration; that the bad portion be destroyed by the United States marshal; and that the good portion be delivered to a charitable institution, for consumption by the inmates. As a result of the segregation operations, 17 birds were found unfit and were destroyed.

**20096. Adulteration of dressed poultry. U. S. 307 \* \* \* Pounds \* \* \*. (F. D. C. No. 34393. Sample No. 44996-L.)**

**LIBEL FILED:** December 1, 1952, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about November 20, 1952, by Karinakas & Son, from Goffstown, N. H.

**PRODUCT:** 307 pounds of dressed poultry at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** December 22, 1952. Default decree of condemnation and destruction.

**20097. Adulteration and misbranding of frozen dressed poultry. U. S. v. 212 Cases \* \* \*. (F. D. C. No. 34390. Sample Nos. 2516-L, 2517-L.)**

**LIBEL FILED:** December 2, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about October 31, 1952, by the Ocoma Foods Co., Div. of Omaha Cold Storage Co., from Omaha, Nebr.

**PRODUCT:** Frozen dressed poultry. 212 cases, each case containing from 10 to 14 birds in individual plastic bags, at Jacksonville, Fla.

**LABEL, IN PART:** (Label in bag) "Fully Dressed Takoma Brand Fowl"; (case) "Takoma Brand 12 [or "10" or "14"] Ready to Cook Fowl With Giblets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

Misbranding, Section 403 (a), the label statements "Fully Dressed" and "Ready to Cook" were false and misleading since the poultry contained intestines, parts not expected in fully dressed, ready to cook poultry.

**DISPOSITION:** December 30, 1952. The Omaha Cold Storage Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. 2,473 birds were trimmed and released to the claimant, and 22 birds were destroyed.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE\*

**20098. Adulteration and misbranding of Basical tablets. U. S. v. 7 Bottles \* \* \*.**  
(F. D. C. No. 34651. Sample No. 46651-L.)

**LIBEL FILED:** February 9, 1953, Southern District of Texas.

**ALLEGED SHIPMENT:** On various dates during the latter part of 1952 and the early part of 1953, by John C. Thie (TPCS Distributors), from Pasadena, Calif.

**PRODUCT:** 7 90-tablet bottles of Basical tablets at Houston, Tex. Examination disclosed that 3 tablets of the product contained 0.608 gram of calcium and that each tablet contained 300 U. S. P. units of vitamin D.

**LABEL, IN PART:** (Bottle) "Formula VI Basical 90 Tablets (6-W) Each tablet contains \* \* \* 500 U. S. P. Units of Vitamin D \* \* \* Three tablets supply the minimum adult daily requirements as follows: Calcium 140.66%."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted or abstracted from the article. The article was adulterated while held for sale after shipment in interstate commerce.

Misbranding, Section 403 (a), the label statement "Three tablets supply the minimum adult daily requirements as follows: Calcium 140.66%" was false and misleading since 3 tablets of the article would supply not more than 81 percent of the minimum adult daily requirement of calcium. The article was misbranded when introduced into and while in interstate commerce.

The libel alleged also that certain other products were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3997.

**DISPOSITION:** March 27, 1953. Default decree of condemnation and destruction.

**20099. Misbranding of Kon-trol-R. U. S. v. 30 Dozen Bottles, etc. (F. D. C. No. 34449. Sample No. 56927-L.)**

**LIBEL FILED:** December 24, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 28, 1952, by the Kon-trol-R Co. of America, from Indianapolis, Ind.

**PRODUCT:** 24 dozen ½-pint bottles and 6 dozen 1-pint bottles of Kon-trol-R at Cincinnati, Ohio, together with a number of circulars entitled "Kon-trol-R For Your Figure." Examination showed that the product was mint-flavored cider vinegar.

**LABEL, IN PART:** (Bottle and carton) "Kon-trol-R For Your Figure \* \* \* A Special Blend of Pure Apple Juice Processed for Optimum Acidity, Mint Flavored \* \* \* ."

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\*See also No. 20054.



**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statements on the label of the article and in the above-mentioned circulars, namely, "Kon-trol-R For Your Figure A Pleasant Aid to The Easiest System for Weight Control \* \* \* A Simple Weight Controlling System," were false and misleading. The statements represented and suggested that the article was effective to bring about a loss of body weight, whereas the article was not effective for that purpose.

Further misbranding, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the food, namely, mint-flavored cider vinegar.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4034.

**DISPOSITION:** February 4, 1953. Default decree of condemnation and destruction.

**20100. Misbranding of Kon-trol-R. U. S. v. 830 Cartoned Bottles, etc. (F. D. C. No. 34689. Sample No. 56942-L.)**

**LIBEL FILED:** February 26, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 20, 1952, by the Kon-trol-R Co. of America, from Indianapolis, Ind.

**PRODUCT:** 830 cartoned bottles of Kon-trol-R at Cincinnati, Ohio, together with a number of circulars entitled "Kon-trol-R For Your Figure." The bottles were in ½-pint and 1-pint sizes. Examination showed that the product was mint-flavored cider vinegar.

**LABEL, IN PART:** (Bottle and carton) "Kon-trol-R for Your Figure \* \* \* A Special Blend of Pure Apple Juice Processed for Optimum Acidity, Mint Flavored."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements on the labels of the article and in the accompanying circular were false and misleading since the statements represented and suggested that the article was effective to bring about a loss of body weight, whereas the article was not effective for that purpose.

Further misbranding, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the food, namely, mint-flavored cider vinegar.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4055.

**DISPOSITION:** April 20, 1953. Default decree of condemnation and destruction.

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PRODUCTS

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navy-----	20078		
yellow-eye-----	20078		

<sup>1</sup> (20082). Seizure contested. Contains findings of fact and conclusions of law.<sup>2</sup> (20092, 20093). Injunction issued.



	N. J. No.		N. J. No.
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		Wool, H., & Sons, Inc.:	
		colored oleomargarine----- <sup>2</sup>	20093

<sup>1</sup> (20082) Seizure contested. Contains findings of fact and conclusions of law.

<sup>2</sup> (20092, 20093) Injunction issued.



# THE FEDERAL REGISTER

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"Just as everyone is charged with knowledge of the United States Statutes at Large, Congress has provided that the appearance of rules and regulations in the FEDERAL REGISTER gives legal notice of their contents."

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## FEDERAL REGISTER

THE NATIONAL ARCHIVES  
OF THE UNITED STATES  
1934  
VOLUME 18  
Washington, Tuesday, February 10, 1935  
NUMBER 27

### TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10433  
Approval of the War Relocation Authority  
Act of 1934, as amended

WHEREAS the production of materials  
and articles for the War Relocation  
Authority is a matter of national  
importance and it is the policy of  
the Government to encourage and  
assist in the production of such  
materials and articles;

Now, therefore, I, the President of  
the United States, do hereby order  
that the War Relocation Authority  
be authorized to produce and  
distribute such materials and  
articles as may be necessary for  
the production of such materials  
and articles;

And I do hereby order that the  
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20101-20150

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., April 13, 1954.

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**BEVERAGES AND BEVERAGE MATERIALS\***

**20101. Adulteration of coffee. U. S. v. Blue Ribbon Coffee Corp. (Guaranty Coffee Co.), and Adam Cokinos. Pleas of guilty. Each defendant fined \$100. (F. D. C. No. 33849. Sample Nos. 24850-L, 26575-L, 26577-L to 26579-L, incl.)**

**INFORMATION FILED:** December 3, 1952, Eastern District of Pennsylvania, against the Blue Ribbon Coffee Corp., trading as the Guaranty Coffee Co., Philadelphia, Pa., and Adam Cokinos, president.

**ALLEGED VIOLATION:** On or about June 27 and July 8, 1952, the defendants shipped, from the State of Pennsylvania into the State of New Jersey\*, a quantity of coffee which was adulterated.

Between the approximate dates of June 17 and July 7, 1952, the defendant corporation received a number of bags of coffee which had been shipped in interstate commerce. While this coffee was held for sale after shipment in interstate commerce, the defendants caused a quantity of a substance other than coffee to be mixed and packed with the food, which act caused the food to be adulterated.

**LABEL, IN PART:** "U. S. Royal The World's Finest Coffee."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance other than coffee had been substituted for coffee.

**DISPOSITION:** March 13, 1953. The defendants having entered pleas of guilty, the court fined each defendant \$100.

**20102. Misbranding of coffee. U. S. v. 64 Cartons \* \* \*. F. D. C. No. 34005. Sample No. 457-L.)**

**LIBEL FILED:** October 9, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about July 29, 1952, by Producers Warehouse, from Chicago, Ill., for J. Aron & Co., New York, N. Y.

**PRODUCT:** 64 cartons, each containing 36 cans, of coffee at Beckley, W. Va.

**LABEL, IN PART:** "One Pound Net Weight Pure Ground Coffee Vacuum Packed."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short weight.)

**DISPOSITION:** December 22, 1952. J. Aron & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be repacked under the supervision of the Federal Security Agency.

**20103. Adulteration of green coffee. U. S. v. 34 Bags \* \* \*. (F. D. C. No. 34201. Sample No. 55251-L.)**

**LIBEL FILED:** November 5, 1952, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 2, 1952, from a foreign country.

**PRODUCT:** 34 170-pound bags of green coffee at Olean, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect excreta, and insect-damaged beans.

---

\*See also No. 20134.



**DISPOSITION:** January 26, 1953. Default decree of condemnation and destruction.

**20104. Adulteration of liquid coffee concentrate. U. S. v. 299 Cases \* \* \*.**  
(F. D. C. No. 32530. Sample No. 1139-L.)

**LIBEL FILED:** February 20, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about November 14, 1951, from Dubuque, Iowa.

**PRODUCT:** 299 cases, each containing 24 6-ounce bottles, of liquid coffee concentrate at Bradenton, Fla. Examination showed that the product was undergoing progressive decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 12, 1952. Default decree of condemnation and destruction.

**20105. Adulteration of liquid coffee concentrate. U. S. v. 125 Cases \* \* \*.**  
(F. D. C. No. 32529. Sample No. 1138-L.)

**LIBEL FILED:** February 20, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about November 14, 1951, from Dubuque, Iowa.

**PRODUCT:** 125 cases, each containing 24 6-ounce bottles, of liquid coffee concentrate at Bradenton, Fla. Examination showed that the product was undergoing progressive decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 12, 1952. Default decree of condemnation and destruction.

## CANDY AND SIRUP

### CANDY

**20106. Adulteration of candy. U. S. v. 16 Cases, etc. (F. D. C. No. 34291.**  
Sample Nos. 40942-L, 40943-L.)

**LIBEL FILED:** December 10, 1952, District of Hawaii.

**ALLEGED SHIPMENT:** On or about November 10, 1952, by the Imperial Candy Co., from Seattle, Wash.

**PRODUCT:** 16 cases, each containing 12 9-ounce boxes, and 51 cases, each containing 6 12-ounce boxes, of candy at Honolulu, T. H.

**LABEL, IN PART:** (Boxes) "Pecan Caramel Bear Claws Chocolate Candy" and "Victoria Creams Almond Crespa Bear Claws."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

**DISPOSITION:** January 9, 1953. No claimant having appeared, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20107. Adulteration of candy. U. S. v. 4 Cases, etc. (F. D. C. No. 34292.**  
Sample Nos. 40940-L, 40941-L.)

**LIBEL FILED:** December 10, 1952, District of Hawaii.

**ALLEGED SHIPMENT:** On or about November 10, 1952, by the Imperial Candy Co., from Seattle, Wash.

**PRODUCT:** 4 cases, each containing 12 9-ounce boxes, and 8 cases, each containing 6 12-ounce boxes, of candy at Port Allen, T. H.

**LABEL, IN PART:** (Boxes) "Pecan Caramel Bear Claws Chocolate Candy" and "Victoria Creams Almond Crespa Bear Claws."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

**DISPOSITION:** January 9, 1953. Default decree of condemnation and destruction.

**20108. Adulteration of candy. U. S. v. 20 Cases \* \* \*. (F. D. C. No. 34388. Sample No. 4600-L.)**

**LIBEL FILED:** December 1, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about October 15, 1950, from Knoxville, Tenn.

**PRODUCT:** 20 cases, each containing 16 boxes and each box containing 120 pieces, of candy at Charleston, W. Va., in the possession of the Charleston Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 8, 1953. Default decree of condemnation and destruction.

**20109. Adulteration of candy. U. S. v. 13 Cases \* \* \*. (F. D. C. No. 34518. Sample No. 7987-L.)**

**LIBEL FILED:** December 29, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 17 and 19, 1952, by the Akron Candy Co., from Bellevue, Ohio.

**PRODUCT:** 13 cases, each containing 28 15-ounce bars, of candy at Holidaysburg, Pa.

**LABEL, IN PART:** (Bar) "Lady Margaret \* \* \* Caramel Nut Fudge Roll."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 23, 1953. Default decree of condemnation and destruction.

## SIRUP

**20110. Adulteration and misbranding of sorghum sirup. U. S. v. 94 Pails \* \* \*. (F. D. C. No. 32846. Sample No. 34228-L.)**

**LIBEL FILED:** March 7, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about February 5, 1952, by J. E. Jones (Jones Sorghum Mill), from Conehatta, Miss.

**PRODUCT:** 94 1-gallon pails of sorghum sirup at Humboldt, Tenn.



**LABEL, IN PART:** "Country Sorghum Best By Taste Test."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to a mixture of sorghum, corn sirup, and sugar.

**DISPOSITION:** May 16, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for consumption by the inmates.

**20111. Adulteration and misbranding of sorghum sirup. U. S. v. 40 Cans \* \* \*.**  
(F. D. C. No. 32844. Sample No. 34226-L.)

**LIBEL FILED:** March 7, 1952, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about January 4, 1952, by Buck Hillman, from Conehatta, Miss.

**PRODUCT:** 40 cans of sorghum sirup at Gibson, Tenn.

**LABEL, IN PART:** "Newton County Mississippi Honey Drip Sorghum Molasses Net Weight 9½ Lb."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum molasses.

Misbranding, Section 403 (a), the label statement "Sorghum Molasses" was false and misleading as applied to a mixture of sorghum, corn sirup, and sugar.

**DISPOSITION:** May 16, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for consumption by the inmates.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCT

**20112. Adulteration of bread. U. S. v. Frank M. Wilson, Jr. (Wilson Wholesale Bakery). Plea of guilty. Fine, \$500. Defendant placed on probation for 2 years. (F. D. C. No. 34356. Sample Nos. 57221-L to 57228-L, incl.)**

**INFORMATION FILED:** March 5, 1953, Eastern District of North Carolina, against Frank M. Wilson, Jr., trading as Wilson Wholesale Bakery, Elizabeth City, N. C.

**ALLEGED SHIPMENT:** On or about September 9, 10, and 11, 1952, from the State of North Carolina into the State of Virginia.

**LABEL, IN PART:** "Colonial Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, larval heads, larval head capsules, insect fragments, mites, psocid heads, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 1, 1953. The defendant having entered a plea of guilty, the court fined him \$500 and sentenced him to 12 months in jail. The court suspended the jail sentence, however, and placed the defendant on probation for 2 years.

**FLOUR**

**20113. Adulteration of flour. U. S. v. 9 Bags, etc. (F. D. C. No. 33074. Sample No. 48955-L.)**

**LIBEL FILED:** April 16, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 2, 1951, from Valley City, N. Dak.

**PRODUCT:** 9 100-pound bags and 412 50-pound bags of flour at Alexandria, Minn., in the possession of Ludke & Co., Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 18, 1952. Ludke & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the denaturing of the unfit portion for use as animal feed, under the supervision of the Federal Security Agency. 900 pounds of the product were found unfit and were denatured.

**MISCELLANEOUS CEREAL**

**20114. Adulteration of wheat. U. S. v. 2,000 Bushels \* \* \*. (F. D. C. No. 34433. Sample No. 37888-L.)**

**LIBEL FILED:** December 16, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 28, 1952, by Cargill, Inc., from Buffalo, N. Y.

**PRODUCT:** 2,000 bushels of wheat at Clifton, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of human excrement and rodent excreta.

**DISPOSITION:** March 27, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Federal Security Agency. The product was mixed with milo and buckwheat, for use as pigeon feed.

**DAIRY PRODUCTS****BUTTER**

**20115. Adulteration of butter. U. S. v. 14 Boxes (882 pounds) \* \* \*. (F. D. C. No. 31487-A. Sample No. 36575-L.)**

**LIBEL FILED:** On or about September 3, 1952, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 27 and July 1 and 11, 1952, by the Beatrice Foods Co., from Vincennes, Ind.

**PRODUCT:** 14 63-pound boxes of butter at Robinson, Ill.

**LABEL, IN PART:** "Tip Top Creamery Co. Vincennes, Indiana."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), the article contained less than 80 percent by weight of milk fat.



DISPOSITION: October 3, 1952. The Beatrice Foods Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing into butter oil, under the supervision of the Food and Drug Administration.

20116. Adulteration of butter. U. S. v. 31 Cartons (approx. 2,015 pounds) \* \* \*.  
(F. D. C. No. 34173. Sample No. 37121-L.)

LIBEL FILED: February 2, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about January 21, 1953, by the Farmers Cooperative Creamery Association, from Avoca, Iowa.

PRODUCT: 31 cartons, each containing approximately 65 pounds, of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 17, 1953. Breakstone Bros., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.

## CHEESE

20117. Adulteration and misbranding of grated cheese. U. S. v. 17 Cases, etc.  
(F. D. C. No. 31020. Sample No. 24271-L.)

LIBEL FILED: June 5, 1951, Northern District of New York.

ALLEGED SHIPMENT: On or about April 25, 1951, by the Moss Food Products Corp., from North Bergen, N. J.

PRODUCT: 17 cases, each containing 24 4-ounce jars, and 22 cases, each containing 24 2-ounce jars, of grated cheese at Utica, N. Y.

LABEL, IN PART: (Jar) "Lee Brand Grated Blend of Italian Romano and Domestic Romano Style Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (b) (2), skim milk cheese had been substituted in whole or in part for a blend of Italian and domestic romano style cheese.

Misbranding, Section 403 (a), the label designation "Blend of Italian Romano and Domestic Romano Style Cheese" was false and misleading as applied to skim milk cheese.

DISPOSITION: July 12, 1951. Default decree of condemnation and destruction.

## EGGS

20118. Adulteration of frozen eggs. U. S. v. 483 Cans \* \* \*. (F. D. C. No. 34027. Sample No. 69131-L.)

LIBEL FILED: October 20, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about September 1, 1952, by the Clary Poultry & Egg Co., from Lubbock, Tex.

PRODUCT: 483 30-pound cans of frozen eggs at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** December 29, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 106 cans were found unfit and were disposed of for nonfood use.

**20119. Adulteration of frozen eggs. U. S. v. 104 Cans \* \* \*. (F. D. C. No. 33901. Sample No. 51553-L.)**

**LIBEL FILED:** October 1, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about July 3, 1952, by the Continent Frozen Foods Corp., from National Stock Yards, Ill.

**PRODUCT:** 104 30-pound cans of frozen eggs at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs, and of a filthy substance by reason of the presence of insects.

**DISPOSITION:** March 5, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

## FEEDS AND GRAINS

**20120. Adulteration and misbranding of alfalfa meal. U. S. v. 1,200 Bags \* \* \*. (F. D. C. No. 31892. Sample No. 83041-K.)**

**LIBEL FILED:** October 12, 1951, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about July 21, 1951, by the Arlington Dehydrator Co., from Arlington, Nebr.

**PRODUCT:** 1,200 100-pound bags of alfalfa meal at Amery, Wis. Analysis showed that the product contained not more than 13.82 percent protein and not less than 32.95 percent fiber.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), alfalfa meal containing less than 17 percent protein and more than 27 percent fiber had been substituted in whole or in part for alfalfa meal containing 17 percent protein and 27 percent fiber.

Misbranding, Section 403 (a), the label statement "Crude Protein (Min.) 17.00% \* \* \* Fibre (Max.) 27.00%" was false and misleading.

**DISPOSITION:** The Arlington Dehydrator Co. appeared as claimant and consented to the entry of a decree. Thereafter, the claimant filed a bond, after which he satisfactorily relabeled the product. Following the relabeling the court found that the product had been relabeled so that it was no longer adulterated and misbranded, and on January 15, 1952, ordered that the product be released to the claimant.

**20121. Adulteration and misbranding of swine mix. U. S. v. 31 Bags \* \* \*. (F. D. C. No. 33686. Sample No. 48618-L.)**

**LIBEL FILED:** September 10, 1952, Southern District of Iowa.



**ALLEGED SHIPMENT:** On or about July 28, 1952, by Ray Ewing Co., Inc., from Kansas City, Mo.

**PRODUCT:** 31 50-pound bags of swine mix at Des Moines, Iowa. Analysis showed that the product contained 50 percent of the declared amount of vitamin D.

**LABEL, IN PART:** "Ray Ewing Swine Mix \* \* \* Contains Not Less Than: \* \* \* Vitamin D-2, USP Units 400,000."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding Section 403 (a), the label statement "Contains Not Less Than: \* \* \* Vitamin D-2, USP Units 400,000" was false and misleading as applied to the article, which contained less than that amount of vitamin D.

**DISPOSITION:** October 10, 1952. Ray Ewing Co., Inc., Pasadena, Calif., claimant, having alleged that the deficiency of the product in vitamin D<sub>2</sub> content at the time of seizure was due to loss or dissipation by processes of oxidation after manufacture, but admitting that, at the time of seizure, the allegations of the libel were true, judgment of condemnation was entered.

The court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration, by reworking and remixing the product so as to add sufficient vitamin D<sub>2</sub> necessary to bring up such vitamin content in the product to the amount declared on the label.

## FISH AND SHELLFISH

**20122. Adulteration and misbranding of canned salmon. U. S. v. 75 Cases \* \* \*. (and 1 other seizure action). (F. D. C. Nos. 23183, 23201. Sample Nos. 66763-H, 66768-H.)**

**LIBELS FILED:** On or about June 17 and 18, 1947, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 16 and 23, 1947, by the United Food Specialty Co., from Detroit, Mich.

**PRODUCT:** 84 cases, each containing 48 cans, of salmon at Bronx, N. Y., and New York, N. Y.

**LABEL, IN PART:** (Cans) "Bumble Bee Brand Columbia River Fancy Chinook Salmon Net Contents 7¾ Oz. Packed By Columbia River Packers Assn., Inc. Astoria, Oregon."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), red salmon had been substituted in whole or in part for chinook salmon, which the article was represented to be.

Misbranding, Section 403 (a), the label designation "Columbia River Fancy Chinook Salmon" was false and misleading as applied to red salmon; and the label statement "Packed By Columbia River Packers Assn., Inc., Astoria, Oregon" was false and misleading since the article was not packed by that firm.

**DISPOSITION:** January 29, 1951. I. Ostrover & Sons, New York, N. Y., claimant, having consented to the entry of a decree and the libel actions having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling.

**20123. Alleged adulteration and misbranding of oysters. U. S. v. J. Loren Sterling, Ira R. Howard, and Morris L. Milbourne (Milbourne Oyster**

Co.). Pleas of not guilty. Tried to the court. Verdict of not guilty. (F. D. C. No. 30095. Sample Nos. 40503-K, 66870-K, 67554-K.)

INDICTMENT RETURNED: March 27, 1951, District of Maryland, against J. Loren Sterling, Ira R. Howard, and Morris L. Milbourne, copartners, trading as the Milbourne Oyster Co., Crisfield, Md.

ALLEGED SHIPMENT: On or about November 20 and December 13 and 16, 1950, from the State of Maryland into the States of New York, Illinois, and Pennsylvania.

LABEL, IN PART: "Contents One Pint Milbourne's Delicious Salt Water Raw Oysters Distributed By Milbourne Oyster Co. Crisfield, Md. Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to a portion of the article and mixed and packed with it so as to increase its bulk and weight and reduce its quality.

Misbranding, Section 403 (g) (1), a portion of the article failed to conform to the definition and standard of identity for oysters standards since the oysters in such portion were not thoroughly drained and were packed with an added substance, namely, water. Further misbranding, Section 403 (e) (2), the remainder of the article failed to bear a label containing an accurate statement of the quantity of the contents since the cans containing the article contained less than "One Pint," as declared on the label.

DISPOSITION: The defendants having entered pleas of not guilty, the case came on for trial before the court on February 6, 1952. The trial was concluded on February 7, 1952, at which time the court returned a verdict of not guilty.

20124. Adulteration of crabmeat. U. S. v. 73 Cans \* \* \*. (F. D. C. No. 33596. Sample No. 21385-L.)

LIBEL FILED: August 15, 1952, Southern District of Texas.

ALLEGED SHIPMENT: On or about August 12, 1952, by the Pascagoula Crab Co., from Pascagoula, Miss.

PRODUCT: 73 1-pound cans of crabmeat at Houston, Tex. Examination showed that the product was contaminated with *E. coli* of fecal origin.

LABEL, IN PART: "Pascagoula Crab Co. All Lump Crab Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), the article was packed in an insanitary factory.

DISPOSITION: October 15, 1952. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

20125. Misbranding of canned cherries. U. S. v. 24 Cases \* \* \*. (F. D. C. No. 32477. Sample No. 40511-L.)

LIBEL FILED: February 4, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about December 26, 1951, by the Western Oregon Packing Corp., from Corvallis, Oreg.

PRODUCT: 24 cases, each containing 24 cans, of cherries at Bronx, N. Y.

LABEL, IN PART: (Can) "Rose Festival Brand Net Weight 1 Lb. 13 Oz. Light Sweet Royal Anne Cherries In Light Syrup Below U. S. Standard Good Food—Not High Grade."



**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the label of the article failed to bear, as required by the definition and standard of identity for canned cherries, the name of the optional packing medium in the article since the label bore the statement "In Light Syrup," whereas the article was packed in sirup designated as "extra heavy sirup" in such definition and standard.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cherries, and the label failed to bear, in the manner and form specified by the standard, a statement that the article fell below such standard.

**DISPOSITION:** April 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions, for consumption and not for sale.

### DRIED FRUIT

**20126. Adulteration of dried apricots. U. S. v. 155 Cases \* \* \*. (F. D. C. No. 32674. Sample No. 16583-L.)**

**LIBEL FILED:** On or about February 19, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about January 14, 1952, by Rosenberg Bros. & Co., Inc., from Fresno, Calif.

**PRODUCT:** 155 cases, each containing 24 bags, of dried apricots at Kansas City, Mo.

**LABEL, IN PART:** (Bag) "Iris Brand Choice Apricots 1 Lb Net Weight."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, insects, and insect fragments.

**DISPOSITION:** May 7, 1952. Rosenberg Bros. & Co., Inc., having appeared as claimant, judgment was entered ordering that the product be released under bond to be brought into compliance with the law. The product was reconditioned by washing and hand-sorting. As a result of such operations, 11 pounds of the product were found unfit and were destroyed.

### VEGETABLES AND VEGETABLE PRODUCTS

**20127. Adulteration of fava beans. U. S. v. 100 Bags \* \* \*. (F. D. C. No. 31773. Sample No. 24066-L.)**

**LIBEL FILED:** October 15, 1951, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about August 17, 1951, from Bari, Italy.

**PRODUCT:** 100 bags of fava beans at Brooklyn, N. Y.

**LABEL, IN PART:** (Bag) "Fava Beans Product of Italy Gross Kg 50."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** January 16, 1952. Default decree of condemnation and destruction.

**20128. Misbranding of canned peas. U. S. v. 216 Cases \* \* \*. (F. D. C. No. 34473. Sample No. 1490-L.)**

**LIBEL FILED:** On or about January 7, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about October 15, 1952, by the Winorr Canning Co., from Circleville, Ohio.

PRODUCT: 216 cases, each containing 6 6-pound, 9-ounce cans, of peas at Atlanta, Ga.

LABEL, IN PART: (Can) "Sunbrite Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peas since the peas were excessively mealy and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: February 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

**20129. Adulteration of canned okra dinner. U. S. v. 44 Cases \* \* \*. (F. D. C. No. 34519. Sample No. 22255-L.)**

LIBEL FILED: January 5, 1953, Northern District of Texas.

ALLEGED SHIPMENT: On or about October 11, 1952, by Evangeline Pepper & Food Products, Inc., from St. Martinville, La.

PRODUCT: 44 cases, each containing 24 14-ounce cans, of okra dinner at Dallas, Tex.

LABEL, IN PART: (Can) "Bulliard's Evangeline Brand Okra Dinner."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted of whole or in part of a decomposed substance.

DISPOSITION: February 11, 1953. Default decree of condemnation and destruction.

#### TOMATOES AND TOMATO PRODUCTS

**20130. Adulteration and misbranding of canned tomatoes. U. S. v. 1,996 Cases \* \* \*. (F. D. C. No. 34149. Sample No. 36552-L.)**

LIBEL FILED: November 19, 1952, Southern District of Indiana.

ALLEGED SHIPMENT: On or about September 8, 1952, by Albert W. Sisk & Son, from Milford, Del.

PRODUCT: 1,996 cases, each containing 24 unlabeled cans, of tomatoes at Indianapolis, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (g) (2), the product purported to be and was represented as canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to bear a label containing the name of the food; and, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: April 3, 1953. The sole intervener having consented to the entry of a decree, judgment of condemnation and destruction was entered.

**20131. Adulteration of canned tomatoes. U. S. v. 1,200 Cases \* \* \*. (F. D. C. No. 34150. Sample No. 44341-L.)**

LIBEL FILED: On or about December 3, 1952, District of Rhode Island.



**ALLEGED SHIPMENT:** On or about September 23, 1952, by the Kings Creek Canning Co., from Princess Anne, Md.

**PRODUCT:** 1,200 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Providence, R. I.

**LABEL, IN PART:** "Iona Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 24, 1953. Default decree of condemnation and destruction.

**20132. Adulteration and misbranding of canned tomatoes. U. S. v. 976 Cases \* \* \*. (F. D. C. No. 33701. Sample No. 36532-L.)**

**LIBEL FILED:** On or about September 23, 1952, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about August 13, 1952, by Robbins Bros., from Preston, Md.

**PRODUCT:** 976 cases, each containing 24 cans, of tomatoes at Evansville, Ind.

**LABEL, IN PART:** "Robbins Tomatoes \* \* \* Contents 1 Lb. 3 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of the presence of excessive tomato peel, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** January 9, 1953. Robbins Bros., claimant, having admitted the facts alleged in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion and for relabeling of such part of the remaining portion that was substandard, under the supervision of the Food and Drug Administration.

The total amount of the product which was actually seized consisted of 646 cases, and, of this amount, 134 cases were found unfit and were destroyed and 512 cases were relabeled.

**20133. Misbranding of canned tomatoes. U. S. v. 998 Cases \* \* \*. (F. D. C. No. 34427. Sample No. 39870-L.)**

**LIBEL FIELD:** December 22, 1952, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about October 27, 1952, by Fernando Canning Co., Inc., from San Fernando, Calif.

**PRODUCT:** 998 cases, each containing 24 1-pound cans, of tomatoes at Charleston, S. C.

**LABEL, IN PART:** (Can) "Calsun Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** March 12, 1953. Fernando Canning Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and

the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20134. Misbranding of tomato juice. U. S. v. 2,230 Cases \* \* \*. (F. D. C. No. 30344. Sample No. 65448-K.)**

**LIBEL FILED:** January 3, 1951, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 3, 1950, by the Atwater Packing Corp., from Atwater, Calif.

**PRODUCT:** 2,230 cases, each containing 48 cans, of tomato juice at Chicago, Ill. Examination showed that the article was a heavy tomato puree which, when diluted according to directions, contained materially less vitamin C than was present in tomato juice.

**LABEL, IN PART:** (Can) "Adwater Brand Concentrated California Tomato Juice Contents: 7 Oz. Avoir. 1 can Adwater concentrate +3½ cans cold water—Quart Pure Tomato Juice."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the name of the article "Concentrated \* \* \* Tomato Juice" and the label designation "Pure Tomato Juice" were false and misleading since the article when reconstituted as directed did not have the nutritional properties of tomato juice in that the vitamin C content was materially less than would be present in tomato juice.

Further misbranding, Section 403 (g) (2), the article purported to be tomato puree, a food for which a definition and standard of identity has been prescribed by regulations, and the label of the article failed to bear, as required by such regulations, the name of the food specified in the definition and standard.

**DISPOSITION:** January 29, 1952. The Atwater Packing Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

**20135. Adulteration of tomato paste. U. S. v. 355 Cases \* \* \*. Motion for intervention and consolidation denied. Decree of condemnation. (F. D. C. No. 32427. Sample Nos. 23925-L, 23926-L.)**

**LIBEL FILED:** January 15, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 13, 1951, by L. N. White & Co., Inc., from New York, N. Y.

**PRODUCT:** 355 cases, each containing 10 cans, of tomato paste at Bayonne, N. J.

**LABEL, IN PART:** (Can) "Tomato Paste Dry Extract 28% Nett Weight: about Lbs. 10 Produce of France—1950."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** On April 1, 1952, L. N. White & Co., Inc., filed a motion with the United States District Court for the District of New Jersey for leave to intervene in the instant case and in the cases reported in notices of judgment on food, Nos. 18535, 19648 and 20137, for consolidation of the instant case with the other cases herein referred to, and for transfer of the consolidated proceedings to the Southern District of New York for trial.

The matter thereafter came on for hearing before the court, and on September 8, 1952, after consideration of the affidavits of the parties and argument of counsel, the court denied such motion for the reason that L. N. White



& Co., Inc., had no proprietary interest in the proceedings in the instant case or in the other cases mentioned, or in the product involved. The court denied also, on September 8, 1952, a similar motion for intervention in the proceedings reported in notices of judgment on food, No. 20136, and for consolidation of such proceedings with those in the instant case, which motion had been filed by B. Dorman & Sons, Brooklyn, N. Y., and L. N. White & Co., Inc., and based its denial on the ground that such parties had no proprietary interest in such proceedings or in the product involved.

On October 16, 1952, it appearing that no appearance had been entered by any party by way of claim or answer, the court entered a default decree of condemnation and destruction.

**20136. Adulteration of tomato paste. U. S. v. 5,391 Cans \* \* \*. (F. D. C. No. 32562. Sample Nos. 35770-L, 35771-L.)**

**LIBEL FILED:** March 5, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about April 23, 1951, by B. Dorman & Sons, from Brooklyn, N. Y.

**PRODUCT:** 5,391 cans of tomato paste at Columbus, Ohio.

**LABEL, IN PART:** (Can) "Tomato Paste Dry Extract 28%—1950 Produce of France Nett Weight ab. lbs. 10 oz. 2" and "Tomato Paste 1950 Halisco 28% Dry Extract Produce of France Nett Weight about 10 Lbs. 2 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted of whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 23, 1952. Default decree of destruction.

**20137. Adulteration of tomato paste. U. S. v. 307 Cases, etc. (F. D. C. No. 32417. Sample Nos. 26923-L, 26924-L.)**

**LIBEL FILED:** January 28, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about May 23, 1951, by L. N. White & Co., Inc., from Jersey City, N. J.

**PRODUCT:** 977 cases, each containing 10 9-pound, 15-ounce cans, of tomato paste at Stockton, Calif.

**LABEL, IN PART:** (Can) "C. C. I. E.-P & Cie Tomato Paste Produce of France."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 12, 1952. Default decree of condemnation and destruction.

## NUTS

**20138. Adulteration of unshelled almonds. U. S. v. 13 Bags \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34411, 34434. Sample Nos. 54087-L, 54089-L.)**

**LIBELS FILED:** December 10 and 17, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about November 7 and 14, 1952, by the Harter Packing Co., from Yuba City, Calif.

**PRODUCT:** 71 80-pound bags of unshelled almonds at Chicago, Ill.

**LABEL, IN PART:** "Sable Brand California IXL Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested almonds, and it was otherwise unfit for food by reason of the presence of gummy almonds.

**DISPOSITION:** January 16, 1953. The cases having been consolidated and the shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered. The court ordered that the product be released under bond for the shelling, segregation, and destruction of the unfit portion, under the supervision of the Federal Security Agency. 169 pounds of the product were found unfit and were destroyed.

**20139. Adulteration of unshelled brazil nuts. U. S. v. 10 Cases \* \* \*. (F. D. C. No. 34484. Sample No. 48466-L.)**

**LIBEL FILED:** December 11, 1952, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

**PRODUCT:** 10 cases, each containing 25 1-pound bags, of unshelled brazil nuts at Davenport, Iowa.

**LABEL, IN PART:** (Bag) "Holly Large Washed Brazil Nuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nuts, and it was otherwise unfit for food by reason of the presence of rancid nuts.

**DISPOSITION:** January 13, 1953. Default decree of condemnation and destruction.

**20140. Adulteration of unshelled pecans. U. S. v. 34 Bags \* \* \*. (F. D. C. No. 34485. Sample No. 56722-L.)**

**LIBEL FILED:** December 22, 1952, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about December 5, 1952, by Flatow, Riley & Co., from Cincinnati, Ohio.

**PRODUCT:** 34 50-pound bags of unshelled pecans at Fort Wayne, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed nuts.

**DISPOSITION:** February 23, 1953. Default decree of condemnation and destruction.

**20141. Adulteration of shelled walnuts. U. S. v. 45 Boxes \* \* \*. (F. D. C. No. 34418. Sample No. 2260-L.)**

**LIBEL FILED:** December 18, 1952, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about December 11, 1951, from Modesto, Calif.

**PRODUCT:** 45 25-pound boxes of shelled walnuts at Jacksonville, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy walnuts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 19, 1953. Default decree of condemnation and destruction.



**POULTRY**

**20142. Adulteration of dressed poultry. U. S. v. 11 Crates \* \* \*. (F. D. C. No. 34130. Sample No. 49537-L.)**

**LIBEL FILED:** November 13, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 28, 1952, by Diamond State Poultry Co., Inc., from Lewes, Del.

**PRODUCT:** 11 crates, each containing 80 pounds, of dressed poultry at Newark, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5) the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** February 27, 1953. Diamond State Poultry Co., Inc., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be eviscerated so as to remove all portions which were contaminated with filth and those birds which were diseased, under the supervision of the Federal Security Agency.

**20143. Adulteration of dressed poultry. U. S. v. 720 Pounds \* \* \*. (F. D. C. No. 34408. Sample No. 49542-L.)**

**LIBEL FILED:** On or about December 10, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about November 18, 1952, by the Cavalier Poultry Corp., from Harrisonburg, Va.

**PRODUCT:** 720 pounds of dressed poultry at New York, N. Y.

**LABEL, IN PART:** "Cavalier Fancy Springs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** January 31, 1953. Default decree of condemnation. The court ordered that samples of the poultry be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20144. Adulteration of dressed poultry. U. S. v. 500 Pounds \* \* \*. (F. D. C. No. 34371. Sample No. 49541-L.)**

**LIBEL FILED:** November 26, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 12, 1952, by the Hartford Live Poultry Co., from Hartford, Conn.

**PRODUCT:** 500 pounds of dressed poultry at Newark, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of excessively bruised birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** January 28, 1953. Default decree of condemnation and destruction. On April 2, 1953, an amended decree was entered providing for the delivery of the product to the Food and Drug Administration for experimental and enforcement purposes, and providing that the portion which was not used for such purposes be destroyed by the Food and Drug Administration.

**20145. Adulteration of dressed poultry. U. S. v. 454 Pounds \* \* \*. (F. D. C. No. 34438. Sample No. 57366-L.)**

**LIBEL FILED:** On or about December 16, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about December 8, 1952, by Rockingham Poultry Marketers Coop., Inc., from Alma, Va.

**PRODUCT:** 454 pounds of dressed poultry at Baltimore, Md.

**LABEL, IN PART:** "Choice N. Y. D. Fowl" or "Genuine Rockingham Poultry."

**NATURE OF CHARGE:** Adulteration, Section 402 (a), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter.

**DISPOSITION:** January 12, 1953. Default decree of condemnation. The court ordered that samples of the poultry be delivered to the Food and Drug Administration and that the remainder be destroyed.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20146. Adulteration of imitation black pepper. U. S. v. 1 Drum \* \* \*. (F. D. C. No. 34503. Sample No. 47231-L.)**

**LIBEL FILED:** December 18, 1952, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about August 29, 1952, by the Knickerbocker Mills Co., from New York, N. Y.

**PRODUCT:** 1 300-pound drum of imitation black pepper at New Orleans, La.

**LABEL, IN PART:** "Knickerbocker Imitation Ground Black Pepper."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects.

**DISPOSITION:** January 15, 1953. Default decree of condemnation and destruction.

**20147. Misbranding of imitation black pepper. U. S. v. 1 Drum \* \* \*. (F. D. C. No. 34246. Sample No. 14903-L.)**

**LIBEL FILED:** On or about December 4, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 15, 1952, by the Arrow Spice & Food Co., from Dallas, Tex.

**PRODUCT:** 1 drum containing 140 pounds of imitation black pepper. Examination showed that the article was a finely ground brownish black powder consisting essentially of cottonseed hulls and wheat fragments and having a weak odor and flavor of black pepper.

**LABEL, IN PART:** "Imitation Pepper Black."

**NATURE OF CHARGE:** Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

**DISPOSITION:** January 23, 1953. Default decree of destruction.

**20148. Adulteration of chili peppers. U. S. v. 78 Bags \* \* \*. (F. D. C. No. 33527. Sample No. 36874-L.)**

**LIBEL FILED:** August 26, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about February 14, 1951, from Japan.



PRODUCT: 78 100-pound bags of chili peppers at Brooklyn, N. Y., in the possession of Bowne-Morton Stores, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, rodents, rodent excreta, and dirt; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 20, 1953. Default decree of condemnation and destruction.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE\*

20149. Adulteration and misbranding of vitamin capsules. U. S. v. 11  
Drums \* \* \*. (F. D. C. No. 34394. Sample Nos. 41713-L, 41714-L.)

LIBEL FILED: December 9, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 16 and 22, 1952, by the Jamieson Pharmacal Co., from Detroit, Mich.

PRODUCT: 11 drums of vitamin capsules at Philadelphia, Pa. Each drum contained 15,000 capsules

Analysis showed that the product contained 54 percent of the declared amount of vitamin B<sub>1</sub> and 6 percent of the declared amount of vitamin C.

LABEL, IN PART: (Drum) "High Potency Clini-B With Vitamin C Capsules \* \* \* Each Capsule Contains: Vitamin B<sub>1</sub> \* \* \* 6 Mg. \* \* \* Vitamin C \* \* \* 75 Mg. \* \* \* 1 Capsule supplies 6 times the minimum daily requirement for Vitamin B<sub>1</sub> \* \* \* 3 times the minimum daily requirement for vitamin C."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamins B<sub>1</sub> and C, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Capsule Contains: Vitamin B<sub>1</sub> \* \* \* 6 Mg. \* \* \* Vitamin C \* \* \* 75 Mg." was false and misleading since the article contained less than the stated amounts of vitamins B<sub>1</sub> and C.

DISPOSITION: January 13, 1953. Benjamin Drob, Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

20150. Adulteration and misbranding of vitamin capsules. U. S. v. 5  
Drums \* \* \*. (F. D. C. No. 34140. Sample No. 66642-L.)

LIBEL FILED: December 19, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 16 and 22, 1952, by the Jamieson Pharmacal Co., from Detroit, Mich.

PRODUCT: 5 drums of vitamin capsules at Philadelphia, Pa. Analysis showed that the product contained 22 percent of the declared amount of vitamin C.

LABEL, IN PART: (Drum) "High Potency Clini-B With Vitamin C Capsules \* \* \* Each Capsule Contains \* \* \* Vitamin C \* \* \* 75 Mg. \* \* \* 1 Capsule Supplies \* \* \* 3 times the minimum daily requirement for Vitamin C \* \* \* 15,000 Caps."

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\*See also No. 20121.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Capsule Contains \* \* \* Vitamin C \* \* \* 75 Mg." was false and misleading as applied to the article, which contained less than the declared amount of vitamin C.

DISPOSITION: March 11, 1953. The Physicians Drug & Supply Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

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<sup>1</sup> (20123) Prosecution contested.



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oysters-----	<sup>1</sup> 20123		

<sup>1</sup> (20123). Prosecution contested.

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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20151-20200

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *April 13, 1954.*

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**BEVERAGES AND BEVERAGE MATERIALS\***

**20151. Adulteration of root beer. U. S. v. Ritz Beverage Co. and Louis Mintz.** Pleas of guilty. Each defendant fined \$750. (F. D. C. No. 34321. Sample No. 53730-L.)

**INFORMATION FILED:** March 2, 1953, Eastern District of Missouri, against the Ritz Beverage Co., a corporation, St. Louis, Mo., and Louis Mintz, president.

**ALLEGED SHIPMENT:** On or about August 11, 1952, from the State of Missouri into the State of Illinois.

**LABEL, IN PART:** "Dad's \* \* \* Dad's Root Beer Bottling Co. St. Louis, Missouri."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 14, 1953. The defendants having entered pleas of guilty, the court fined each \$750.

**20152. Adulteration of green coffee. U. S. v. 150 Bags \* \* \*. (F. D. C. No. 33524. Sample No. 37863-L.)**

**LIBEL FILED:** August 26, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about June 21, 1952, from Haiti.

**PRODUCT:** 150 bags, each containing 80 kilos, of green coffee at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of manure and other extraneous material.

**DISPOSITION:** March 26, 1953. H. L. C. Bendiks, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Federal Security Agency. As a result of the reprocessing operations, 399 pounds of the product were found unfit and were destroyed.

**CEREALS AND CEREAL PRODUCTS****FLOUR**

**20153. Adulteration of flour. U. S. v. 96 Bags, etc. (F. D. C. No. 34531. Sample Nos. 48467-L to 48469-L, incl.)**

**LIBEL FILED:** January 5, 1953, District of North Dakota; amended libel filed January 13, 1953.

**ALLEGED SHIPMENT:** On or about June 4 and August 22, 1952, from Minneapolis, Minn., and Great Falls, Mont.

**PRODUCT:** 813 25-pound bags and 387 50-pound bags of flour at Fargo, N. Dak., in the possession of Red Owl Stores, Inc.

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\*See also Nos. 20185-20187.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 19, 1953. Red Owl Stores, Inc., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 537 25-pound bags and 358 50-pound bags of the flour were found unfit. 16 of the bags of unfit flour were destroyed, and the remainder were converted into animal feed.

**20154. Adulteration of flour. U. S. v. 70 Bags \* \* \*. (F. D. C. No. 34657. Sample No. 2690-L.)**

**LIBEL FILED:** February 9, 1953, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about April 11, 1952, from Durham, N. C.

**PRODUCT:** 70 50-pound bags of flour at Spartanburg, S. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20155. Adulteration of corn. U. S. v. 240,000 Pounds \* \* \*. (F. D. C. No. 33601. Sample Nos. 16486-L, 16487-L.)**

**LIBEL FILED:** July 23, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about July 5 and 7, 1952, by the Grettenberg Grain Co., from Coon Rapids, Iowa.

**PRODUCT:** 240,000 pounds of corn at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, tetraethylthiuram disulfide (Arasan).

**DISPOSITION:** August 4, 1952. The Grettenberg Grain Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into commercial alcohol, under the supervision of the Food and Drug Administration.

On August 26, 1952, the decree was amended to provide for bringing the article into full compliance with the law in lieu of converting it into commercial alcohol. The product was reconditioned by a thorough washing and rinsing. The reconditioned product was disposed of for use as animal feed.

**20156. Adulteration of rice. U. S. v. 10 Bags \* \* \*. (F. D. C. No. 34762. Sample No. 70353-L.)**

**LIBEL FILED:** March 18, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 25, 1952, from De Witt, Ark.

**PRODUCT:** 10 100-pound bags of rice at Cincinnati, Ohio, in possession of George E. Pellens.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 26, 1953. Default decree of condemnation and destruction.

**20157. Adulteration of wheat. U. S. v. 80,000 Pounds \* \* \*. (F. D. C. No. 34744. Sample No. 53570-L.)**

**LIBEL FILED:** March 12, 1953, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 3, 1953, by R. H. Baumgartner & Co., from East St. Louis, Ill.

**PRODUCT:** 80,000 pounds of wheat at East St. Louis, Ill. The product had been delivered to the railroad for shipment to Hopkinsville, Ky.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** March 17, 1953. George Hubbard, trading as the T. H. Vaughn Grain Elevator, Montrose, Ill., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be utilized in the manufacture of animal feed, under the supervision of the Food and Drug Administration.

**20158. Adulteration of Hush Puppies mix. U. S. v. Thomas Bush Chiles (Bush Chiles' Hush Puppy Mix Co.). Plea of nolo contendere. Fine, \$200. (F. D. C. No. 34313. Sample Nos. 19871-L, 34288-L, 34289-L.)**

**INFORMATION FILED:** March 14, 1953, Western District of Kentucky, against Thomas Bush Chiles, trading as Bush Chiles' Hush Puppy Mix Co., West Paducah, Ky.

**ALLEGED SHIPMENT:** Between the approximate dates of August 11 and 23, 1952, from the State of Kentucky into the States of Tennessee and Iowa.

**LABEL, IN PART:** "Bush Chiles Original Hush Puppies Mix."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvae, larval head capsules, insect fragments, moth scales, mites, beetles, feather fragments, and cat hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 22, 1953. The defendant having entered a plea of nolo contendere, the court fined him \$200.



**FEEDS AND GRAINS**

**20159. Adulteration and misbranding of alfalfa meal. U. S. v. H. E. Clark Alfalfa Mills, Inc., and Harold E. Clark. Pleas of nolo contendere. Fine of \$30, plus costs, against each defendant. (F. D. C. No. 33859. Sample Nos. 5319-L, 6301-L.)**

**INFORMATION FILED:** December 23, 1952, District of Kansas, against H. E. Clark Alfalfa Mills, Inc., Howard, Kans., and Harold E. Clark, president of the corporation.

**ALLEGED SHIPMENT:** On or about September 19, 1951, from the State of Kansas into the State of New Hampshire.

**LABEL, IN PART:** "Alfalfa Meal H. E. Clark Company Winfield Kansas 17% Dehydrated Alfalfa Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 17 percent of protein had been substituted for a product containing 17 percent of protein, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Guaranteed Analysis Crude Protein, not less than 17.0%" was false and misleading since the article contained less than 17 percent of protein.

**DISPOSITION:** March 12, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$30, plus costs.

**20160. Misbranding of Block-O-Milk (poultry feed). U. S. v. 24 Cartons \* \* \*. (F. D. C. No. 34529. Sample Nos. 19832-L, 65187-L.)**

**LIBEL FILED:** January 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 19, 1952, by the Hess Condensed Buttermilk Co., from Dyersville, Iowa.

**PRODUCT:** 24 50-pound cartons of Block-O-Milk at Spring Valley, Minn.

**LABEL, IN PART:** "Hess' Blue Banner Block-O-Milk By Products for Chickens and Turkeys Ingredients Buttermilk and Whey—Total Solids Including Lactic Acid Not Less Than 62.0%."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Total Solids \* \* \* Not Less than 62.0%" was false and misleading as applied to the product, which contained substantially less than 62.0 percent total solids, and the label statement "Block-O-Milk" was false and misleading as applied to a mixture of whey and buttermilk.

**DISPOSITION:** March 23, 1953. Default decree of destruction.

**FISH AND SHELLFISH**

**20161. Adulteration of frozen flounder and fluke. U. S. v. 84 Boxes \* \* \*. (F. D. C. No. 34453. Sample No. 50034-L.)**

**LIBEL FILED:** January 2, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** Between November 19 and 25, 1952, from New Bedford, Mass., and Wildwood, N. J.

**PRODUCT:** 84 boxes, each containing 10 pounds, of frozen flounder and frozen fluke at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances by reason of the presence of

decomposed fish. The products were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 7, 1953. Default decree of condemnation and destruction.

**20162. Misbranding of frozen grouper fillets. U. S. v. 80 Cases \* \* \*. (F. D. C. No. 34694. Sample No. 2745-L.)**

**LIBEL FILED:** March 3, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about January 20, 1953, by Ernest Busker, trading as Caribbean Queen Products, Ltd., from Belize, British Honduras.

**PRODUCT:** 80 cases, each containing 10 5-pound cartons, of frozen grouper fillets at Miami, Fla.

**LABEL, IN PART:** (Carton) "Grouper Fillets"; (individually wrapped fillet) "Genuine Red Snapper Fillet."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statement "Genuine Red Snapper Fillet" on the individually wrapped fillets in each 5-pound carton was false and misleading as applied to the product, which was grouper.

**DISPOSITION:** March 13, 1953. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20163. Adulteration of frozen skinless pollock fillets. U. S. v. 276 Cases \* \* \*. (F. D. C. No. 34701. Sample No. 54389-L.)**

**LIBEL FILED:** February 10, 1953, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about January 19, 1953, by the Collins-Lee Co., from Boston, Mass.

**PRODUCT:** 276 cases, each containing 5 10-pound cartons, of frozen skinless pollock fillets at Green Bay, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** March 24, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 187 cases, each containing 5 10-pound cartons, were salvaged as fit for human consumption.

**20164. Adulteration of frozen whitefish. U. S. v. 443 Pounds \* \* \*. (F. D. C. No. 34634. Sample No. 50047-L.)**

**LIBEL FILED:** January 30, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about September 18, 1952, from New York, N. Y.

**PRODUCT:** 443 pounds of frozen whitefish at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 2, 1953. Default decree of condemnation and destruction.



**20165. Adulteration of oysters. U. S. v. 753 Cans \* \* \*. (F. D. C. No. 33984. Sample Nos. 57236-L, 57237-L.)**

**LIBEL FILED:** October 2, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 29, 1952, by Oxford Packing Co., Inc., from Oxford, Md.

**PRODUCT:** 544 1-pint cans of oysters standards and 209 1-pint cans of oysters selects at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

**DISPOSITION:** December 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for consumption by the inmates.

**20166. Adulteration of frozen shrimp. U. S. v. 437 Pounds, etc. (F. D. C. No. 34592. Sample No. 50036-L.)**

**LIBEL FILED:** January 13, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 11, 1952, by South American Fish Distributors, Inc., from Nanticoke, Md.

**PRODUCT:** 607 pounds of frozen shrimp at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirty shrimp, and of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** January 29, 1953. South American Fish Distributors, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating the decomposed shrimp and washing and cleaning the remainder, under the supervision of the Federal Security Agency. The segregation operations resulted in the destruction of 54½ pounds of the product as unfit.

**20167. Misbranding of frozen breaded shrimp. U. S. v. 159 Cases \* \* \*. (F. D. C. No. 34475. Sample No. 2474-L.)**

**LIBEL FILED:** January 5, 1953, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about December 6, 1952, by the Brunswick Quick Freezer & Crab Plant, from Brunswick, Ga.

**PRODUCT:** 159 cases, each containing 24 packages, of frozen breaded shrimp at Columbia, S. C. Examination showed that 12 ounces of breaded shrimp could easily be placed in each package.

**LABEL, IN PART:** (Package) "Net Weight 6 Oz. Flying Jib Breaded Shrimp."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the product was so filled as to be misleading since an additional 6 ounces of breaded shrimp could be placed in each package.

**DISPOSITION:** February 12, 1953. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged and relabeled under the supervision of the Food and Drug Administration.

**FRUITS AND VEGETABLES****CANNED FRUIT**

**20168. Misbranding of canned apricots. U. S. v. 97 Cases \* \* \*. (F. D. C. No. 34581. Sample No. 42506-L.)**

**LIBEL FILED:** February 9, 1953, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about January 7, 1953, by Hunt Foods, Inc., from Hayward, Calif.

**PRODUCT:** 97 cases, each containing 24 1-pound, 13-ounce cans, of apricots at Green Bay, Wis.

**LABEL, IN PART:** (Can) "Harvest Inn Brand Unpeeled Apricots Halves Heavy Syrup \* \* \* Mixed Pieces of Irregular Sizes and Shapes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned apricot halves since all of the apricot units were not untrimmed or so trimmed as to preserve normal shape and the label failed to bear, as required by the regulations, a statement that the product fell below the standard.

**DISPOSITION:** April 13, 1953. Default decree of condemnation. On April 22, 1953, the court ordered that the product be delivered to a charitable institution.

**20169. Misbranding of canned peaches. U. S. v. 134 Cases \* \* \*. (F. D. C. No. 34602. Sample No. 43054-L.)**

**LIBEL FILED:** January 14, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about November 25, 1952, by the Pacific Grape Products Co., from Stockton, Calif.

**PRODUCT:** 134 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Brooklyn, N. Y.

**LABEL, IN PART:** (Can) "A & P Sliced Yellow Cling Peaches In Heavy Syrup Grade A."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Grade A" was false and misleading since the product was not of Grade A quality, because of variation in size and shape, color, texture, and appearance of the fruit.

**DISPOSITION:** April 28, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**MISCELLANEOUS FRUIT PRODUCTS**

**20170. Adulteration and misbranding of blackberry jelly. U. S. v. 2 Cases \* \* \*. (F. D. C. No. 33641. Sample No. 29669-L.)**

**LIBEL FILED:** August 15, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 10, 1952, by the Oswego Jelly Co., from Oswego, Oreg.

**PRODUCT:** 2 cases, each containing 24 12-ounce jars, of blackberry jelly at Seattle, Wash.



**LABEL, IN PART:** "Oregon Hills Brand Pure Mountain Wild Blackberry Jelly  
\* \* \* Made by Allan and Allan Dickinson Oswego, Ore."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 65 percent soluble solids had been substituted for blackberry jelly, which the product was represented to be.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for blackberry jelly since the soluble-solids content of the product was less than 65 percent.

**DISPOSITION:** April 3, 1953. Default decree of condemnation. The court ordered that the product be delivered to a hospital for its use.

**20171. Adulteration of frozen strawberry juice. U. S. v. 1,879 Cans \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34057, 34096. Sample Nos. 36459-L, 36700-L, 36701-L.)**

**LIBELS FILED:** October 30 and November 3, 1952, Southern District of Indiana and Eastern District of New York.

**ALLEGED SHIPMENT:** On or about June 10 and July 3, 1952, by Driscoll Strawberries, Inc., from San Martin, Calif.

**PRODUCT:** 3,868 25-pound cans of frozen strawberry juice at Indianapolis, Ind., and Brooklyn, N. Y.

**LABEL, IN PART:** "Driscoll Brand Frozen Strawberry Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material and by reason of its manufacture from rotten strawberries.

**DISPOSITION:** March 27 and 30, 1953. The libel actions having been removed to the Southern District of California for trial and Driscoll Strawberries, Inc., claimant, having subsequently been permitted to withdraw its claim on condition that it pay all costs of the actions, judgments of condemnation were entered and the court ordered that the product be destroyed.

**20172. Adulteration of plum pudding. U. S. v. 49 Cases \* \* \*. (F. D. C. No. 34447. Sample No. 66914-L.)**

**LIBEL FILED:** December 29, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 19, 1952, by Richardson & Robbins, from Dover, Del.

**PRODUCT:** 49 cases, each containing 12 cans, of plum pudding at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Richardson & Robbins Contents One Pound R & R Plum Pudding."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

**DISPOSITION:** February 16, 1953. Default decree of condemnation and destruction.

## VEGETABLES

**20173. Misbranding of canned cut green beans. U. S. v. 109 Cases \* \* \*. (F. D. C. No. 34565. Sample Nos. 40750-L, 40754-L.)**

**LIBEL FILED:** January 27, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 11, 1952, by Kolstad Canneries, Inc., from Silverton, Oreg.

**PRODUCT:** 109 cases, each containing 6 6-pound, 5-ounce cans, of cut green beans at Seattle, Wash.

**LABEL, IN PART:** (Can) "Valley Brand Blue Lake Variety [or "Stringless Blue Lake Variety"] Cut Green Beans."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned cut green beans since there were present in the article pods or pieces of pods  $27/64$  inch or more in diameter and since the article contained an excessive number of tough strings, and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** April 14, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.

**20174. Misbranding of canned peas. U. S. v. 26 Cases \* \* \*. (F. D. C. No. 34629. Sample No. 66947-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 5, 1952, from Milton, Oreg.

**PRODUCT:** 26 cases, each containing 48 cans, of peas at Philadelphia, Pa., in the possession of Meyer Mittleman.

**RESULTS OF INVESTIGATION:** While in transit, the peas became sweat damaged. These damaged peas were sold to Meyer Mittleman at Philadelphia, Pa., who relabeled the peas as appears below.

**LABEL, IN PART:** (Can) "Wisconsin Peas Content 8 Oz. Arlington Canning Company Arlington Wisconsin Sweet Variety."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements "Wisconsin Peas" and "Arlington Canning Company Arlington Wisconsin" were false and misleading since the product was Oregon peas packed by Rogers Canning Co., Milton, Oreg. The product was misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 26, 1953. Default decree of condemnation and destruction.

**20175. Adulteration of dried green split peas. U. S. v. 45 Bags \* \* \*. (F. D. C. No. 34463. Sample No. 59140-L.)**

**LIBEL FILED:** January 5, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about January 30, 1951, from North Kansas City, Mo.

**PRODUCT:** 45 100-pound bags of dried green split peas at Tampa, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 27, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.



**20176. Adulteration of dried black-eyed peas. U. S. v. 303 Bags \* \* \*. (F. D. C. No. 34679. Sample No. 59148-L.)**

**LIBEL FILED:** On or about February 27, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 21, 1952, from Cuba.

**PRODUCT:** 303 100-pound bags of dried black-eyed peas at Seffner, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

### **TOMATOES AND TOMATO PRODUCTS**

**20177. Adulteration and misbranding of canned tomatoes. U. S. v. 2,043 Cases \* \* \*. (F. D. C. No. 34206. Sample No. 56524-L.)**

**LIBEL FILED:** November 6, 1952, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about September 12 and 22, 1952, by Robbins Bros., from Preston, Md.

**PRODUCT:** 2,043 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Clarksville, Tenn.

**LABEL, IN PART:** (Can) "Robbins Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes since the article contained excessive peel and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** March 26, 1953. Default decree of destruction.

**20178. Adulteration of canned tomatoes. U. S. v. 858 Cases \* \* \*. (F. D. C. No. 34267. Sample No. 44177-L.)**

**LIBEL FILED:** December 1, 1952, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about October 11, 1952, by the Galena Canning Co., from Galena, Mo.

**PRODUCT:** 858 cases, each containing 24 1-pound cans, of tomatoes at Oklahoma City, Okla.

**LABEL, IN PART:** (Can) "Belle Isle Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 16, 1953. The sole intervener having consented to the entry of a decree, judgment of condemnation and destruction was entered. Destruction was effected by feeding the tomatoes to hogs.

**20179. Adulteration of canned tomatoes. U. S. v. 800 Cases \* \* \*. (F. D. C. No. 34260. Sample Nos. 36667-L, 36668-L.)**

**LIBEL FILED:** November 28, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 8, 1952, by Albert W. Sisk & Son, from Hurlock, Md.

**PRODUCT:** 300 cases, each containing 48 10-ounce cans, and 500 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Cincinnati, Ohio.

**LABEL, IN PART:** (Cans) "Queen Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 20, 1953. Default decree of condemnation and destruction.

**20180. Adulteration of canned tomatoes. U. S. v. 464 Cases \* \* \*. (F. D. C. No. 32679. Sample No. 7242-L.)**

**LIBEL FILED:** February 19, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between October 4 and November 3, 1951, by the New Madison Canning Co., from Osgood, Ohio.

**PRODUCT:** 464 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Sharon, Pa.

**LABEL, IN PART:** (Can) "Kitchen Queen Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** December 23, 1952. Default decree of condemnation and destruction.

**20181. Misbranding of canned tomatoes. U. S. v. 698 Cases \* \* \*. (F. D. C. No. 34681. Sample No. 67099-L.)**

**LIBEL FILED:** February 24, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 25, 1952, by Thomas Roberts & Co., from Drawbridge, Md.

**PRODUCT:** 698 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Robbins Tomatoes \* \* \* Packed In U. S. A. By Robbins Bros. Andrews, Md. Bethlehem, Md. and Drawbridge, Md."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of low drained weight, and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** April 15, 1953. Robbins Bros., Andrews, Md., claimant, having consented to the entry of a decree, the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.



**20182. Misbranding of canned tomatoes. U. S. v. 430 Cases, etc.** (F. D. C. No. 34491. Sample Nos. 4610-L, 4611-L.)

**LIBEL FILED:** December 17, 1952, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 12, 1952, by the Kings Creek Canning Co., from Kings Creek, Md.

**PRODUCT:** 430 cases, each containing 24 1-pound, 3-ounce cans, and 226 cases, each containing 24 1-pound, 12-ounce cans of tomatoes at Huntington, W. Va.

**LABEL, IN PART:** (Can) "Iona Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** March 12, 1953. The Kings Creek Canning Co., Princess Anne, Md., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20183. Misbranding of canned tomatoes. U. S. v. 98 Cases \* \* \*.** (F. D. C. No. 34528. Sample No. 59048-L.)

**LIBEL FILED:** January 5, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about December 8, 1952, by Markham Bros. & Co., from Okeechobee, Fla.

**PRODUCT:** 98 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Valdosta, Ga.

**LABEL, IN PART:** (Can) "Oak Hill Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** March 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

**20184. Misbranding of canned tomatoes. U. S. v. 93 Cases \* \* \*.** (F. D. C. No. 34227. Sample No. 62151-L.)

**LIBEL FILED:** November 18, 1952, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 4, 1952, by Westwood Canning Co., Inc., from New Castle, Ind.

**PRODUCT:** 93 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Murphysboro, Ill.

**LABEL, IN PART:** (Can) "It's Good Brand Solid Pack Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by such regulations, the name of the optional ingredient, calcium salt or calcium salts, present in the article.

**DISPOSITION:** March 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, conditioned that the product be used only by the institution.

20185. Adulteration of tomato juice. U. S. v. 1,795 Cases \* \* \*. (F. D. C. No. 34219. Sample No. 16510-L.)

**LIBEL FILED:** November 13, 1952, District of Kansas.

**ALLEGED SHIPMENT:** On or about September 5 and October 1, 1952, by the Brunson Canning Co., from Alexandria, Ind.

**PRODUCT:** 1,795 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Pittsburg, Kans.

**LABEL, IN PART:** (Can) "Brunson Selected Indiana Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** January 16, 1953. Default decree of condemnation and destruction.

20186. Adulteration of tomato juice. U. S. v. 422 Cases \* \* \*. (F. D. C. No. 34054. Sample No. 24949-L.)

**LIBEL FILED:** On or about November 3, 1952, Middle District of Pennsylvania; amended libel filed December 8, 1952.

**ALLEGED SHIPMENT:** On or about September 12, 1952, by Libby, McNeill & Libby, from Wyoming, Del.

**PRODUCT:** 422 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at York, Pa.

**LABEL, IN PART:** "Libby's Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** April 30, 1953. The sole intervener having withdrawn its claim and answer, the court entered a decree of condemnation and destruction.

20187. Adulteration of tomato juice. U. S. v. 294 Dozen Cans \* \* \*. (F. D. C. No. 34698. Sample No. 54220-L.)

**LIBEL FILED:** February 10, 1953, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about October 28, 1952, by Growers & Packers Cooperative Canning Co., Inc., from North Collins, N. Y.

**PRODUCT:** 294 dozen cans of tomato juice at Detroit, Mich.

**LABEL, IN PART:** "Gro-Pak Tomato Juice Contents 1 Pint 2 Fluid Ounces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

## NUTS AND NUT PRODUCTS

20188. Adulteration of unshelled almonds. U. S. v. 140 Cartons \* \* \*. (F. D. C. No. 34280. Sample No. 36028-L.)

**LIBEL FILED:** December 4, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 30, 1952, by the California Almond Growers Exchange, from Sacramento, Calif.



**PRODUCT:** 140 cartons, each containing 24 1-pound bags, of unshelled almonds at Cincinnati, Ohio.

**LABEL, IN PART:** (Bag) "Blue Diamond Brand."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts, and it was otherwise unfit for food by reason of the presence of gummy nuts.

**DISPOSITION:** December 31, 1952. Frank C. Glueck & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit portion from the unfit, under the supervision of the Federal Security Agency. With respect to the segregation operations, the product was commingled with the product involved in the case reported in notices of judgment on foods, No. 19535. As a result of such operations, 2,085 pounds of nuts were salvaged, and 22 $\frac{3}{4}$  pounds were found unfit and were destroyed.

**20189. Adulteration of brazil nuts. U. S. v. 48 Cases \* \* \*. (F. D. C. No. 34207. Sample No. 36013-L.)**

**LIBEL FILED:** November 7, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 23, 1952, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

**PRODUCT:** 48 cases, each containing 24 bags, of brazil nuts at Cincinnati, Ohio.

**LABEL, IN PART:** (Bag) "Holly Large Washed Brazil Nuts Net Weight 1 Lb."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed nuts.

**DISPOSITION:** November 18, 1952. Frank C. Glueck & Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered. The court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 250 pounds of the product were found unfit and were destroyed.

**20190. Adulteration of pistachio nuts. U. S. v. 3 Tins \* \* \*. (F. D. C. No. 33636. Sample No. 29668-L.)**

**LIBEL FILED:** August 12, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about June 28, 1952, from New York, N. Y.

**PRODUCT:** 3 tins, each containing 25 pounds, of pistachio nuts at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect-damaged nuts. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 3, 1953. Default decree of condemnation and destruction.

**20191. Misbranding of peanut butter. U. S. v. 29 Cartons \* \* \*. (F. D. C. No. 34412. Sample No. 37085-L.)**

**LIBEL FILED:** February 2, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by the Newark Packing Co., from Newark, N. J.

**PRODUCT:** 29 cartons, each containing 24 jars, of peanut butter at New York, N. Y.

**LABEL, IN PART:** (Jar) "White Rose Homogenized Peanut Butter \* \* \* Net 1 Lb."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than 1 pound.)

**DISPOSITION:** February 7, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions for their use and not for sale.

## OILS AND FATS

**20192. Adulteration and misbranding of table and cooking oil. U. S. v. Western Food Corp., George M. Stern, and Sidney J. Misrac. Pleas of nolo contendere. Defendants jointly fined \$600, plus costs. (F. D. C. No. 33809. Sample Nos. 33392-L to 33395-L incl., 35451-L, 35462-L.)**

**INFORMATION FILED:** January 13, 1953, Northern District of Illinois, against the Western Food Corp., Chicago, Ill., and George M. Stern, president, and Sidney J. Misrac, vice president.

**LABEL, IN PART:** "Liguria Superfine Brand An Excellent Composition of 80% Vegetable Oil and 20% of Pure Virgin Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted from the article; and, Section 402 (b) (2), a product which contained little or no olive oil had been substituted for a blend of 80 percent of vegetable oil and 20 percent of olive oil, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "20% of Pure Virgin Olive Oil" was false and misleading since the article contained little or no olive oil.

**DISPOSITION:** February 9, 1953. A plea of nolo contendere having been entered on behalf of the defendants, the court imposed a fine of \$600, plus costs, against the defendants jointly.

**20193. Adulteration of chicken fat. U. S. v. 2,875 Pounds \* \* \*. (F. D. C. No. 34417. Sample No. 49178-L.)**

**LIBEL FILED:** December 11, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 19, 1952, by Harry A. Whelan, from Boston, Mass.

**PRODUCT:** 2,875 pounds of chicken fat at Hoboken, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fecal matter, and of a decomposed substance by reason of the presence of decomposed chicken fat.

**DISPOSITION:** January 26, 1953. Default decree of condemnation. The court ordered that the product be denatured and sold for fat salvage.

**20194. Adulteration of raw chicken fat. U. S. v. 137 Pounds \* \* \*. (F. D. C. No. 34647. Sample No. 44795-L.)**

**LIBEL FILED:** February 2, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about January 21, 1953, by Gene Gaudette, from Biddeford, Maine.



**PRODUCT:** 137 pounds of raw chicken fat in 6 cans at Belmont, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of chicken excrement.

**DISPOSITION:** April 13, 1953. Default decree of condemnation and destruction.

## POULTRY

**20195. Adulteration of dressed poultry. U. S. v. 279 Pounds \* \* \*. (F. D. C. No. 34441. Sample No. 49548-L.)**

**LIBEL FILED:** On or about December 23, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 3, 1952, by United Cooperative Farmers, Inc., from Leominster, Mass.

**PRODUCT:** 279 pounds of dressed poultry at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** February 20, 1953. Default decree of condemnation. The court ordered that samples of the poultry be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20196. Adulteration of dressed turkeys. U. S. v. 200 Pounds \* \* \*. (F. D. C. No. 34606. Sample No. 49551-L.)**

**LIBEL FILED:** January 13, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about December 18, 1952, by Caroline Poultry Farms, Inc., from Federalsburg, Md.

**PRODUCT:** 200 pounds of dressed turkeys in 5 crates at Newark, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of turkeys, the flesh of which were contaminated with poultry feed from ruptured esophagi.

**DISPOSITION:** April 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to the Food and Drug Administration for experimental and enforcement purposes and that the portion not so used be destroyed by a representative of the Food and Drug Administration.

**20197. Adulteration of frozen turkeys. U. S. v. 36 Boxes, etc. (and 4 other seizure actions). (F. D. C. Nos. 33336, 33440, 33451, 33455, 33474. Sample Nos. 11765-L, 11766-L, 36419-L to 36424-L, incl., 36428-L, 36429-L.)**

**LIBELS FILED:** Between the approximate dates of June 27 and July 15, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 7 and 10 and June 5, 1952, by the Irving Manaster Co. and the W. G. Manaster Co., from Chicago, Ill.

**PRODUCT:** 345 boxes, each containing 4 turkeys; 265 boxes, each containing 2 turkeys; and 1 box containing 3 turkeys, at Cincinnati, Ohio.

**LABEL, IN PART:** (Box) "Sunset Valley Processed Brand Drawn Young Tom Turkeys," "Indian Hill [or "Better Quality"] Brand Processed Drawn Young Tom Turkeys," or "Marion Farms Drawn Young Tom Turkeys."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for frozen turkeys; and, Section 402 (b) (4), water had been added to the turkeys or mixed or packed with them so as to increase their bulk or weight or reduce their quality or strength.

**DISPOSITION:** March 2, 1953. The Irving Manaster Co. having appeared as claimant and admitted the allegations of the libels and the libel actions having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was brought into compliance by cooking the turkeys and converting the meat into turkey pies.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20198. Adulteration of pickled peppers. U. S. v. 27 Cases \* \* \*. (F. D. C. No. 34708. Sample No. 29377-L.)**

**LIBEL FILED:** February 13, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 9 and October 22, 1949, from Jackson, Miss.

**PRODUCT:** 27 cases, each containing 24 3-ounce jars, of pickled peppers at Tacoma, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 12, 1953. Default decree of condemnation and destruction.

**20199. Adulteration of crushed red peppers and dried chiles. U. S. v. 50 Pounds, etc. (F. D. C. No. 34568. Sample Nos. 19829-L, 19830-L.)**

**LIBEL FILED:** January 29, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 27, 1951, and August 21, 1952, from St. Louis, Mo.

**PRODUCT:** 1 drum containing approximately 50 pounds of crushed red peppers and 1 drum containing approximately 30 pounds of dried chiles at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 27, 1953. Default decree of destruction.

**20200. Adulteration of frozen chili. U. S. v. 2 Crates \* \* \*. (F. D. C. No. 34520. Sample No. 14587-L.)**

**LIBEL FILED:** December 31, 1952, District of Colorado.

**ALLEGED SHIPMENT:** On or about October 7, 1952, by Best Mexican Foods, from Albuquerque, N. Mex.

**PRODUCT:** 2 crates, each containing 90 14-ounce cartons, of frozen chili at Denver, Colo.

**LABEL, IN PART:** (Carton) "Baca's Frozen Chili."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragmen<sup>t</sup>s.

**DISPOSITION:** February 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

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U. S. Department of Health, Education, and Welfare

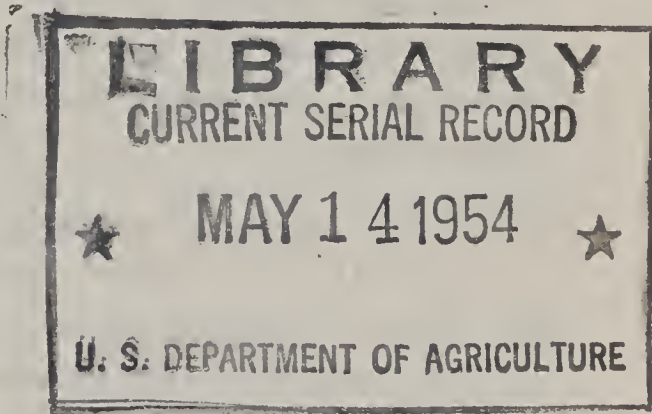
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20201-20250

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., May 3, 1954.

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20201. Adulteration of french bread. U. S. v. 568 Loaves \* \* \*. (F. D. C. Nos. 34535, 34536. Sample Nos. 103-L, 104-L.)**

**LIBEL FILED:** January 6, 1953, District of Hawaii.

**ALLEGED SHIPMENT:** On or about December 11, 1952, by Larraburu Bros., from San Francisco, Calif.

**PRODUCT:** 568 15-ounce loaves of french bread at Honolulu, T. H.

**LABEL, IN PART:** "Larraburu Bros. Genuine Old Style Sour French Bread \* \* \* New Parisian Bakery."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 3, 1953. Default decree of condemnation and destruction.

**20202. Adulteration of pretzels and pretzel sticks. U. S. v. 232 Cases, etc. (F. D. C. No. 34733. Sample Nos. 18042-L, 18046-L.)**

**LIBEL FILED:** March 2, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about January 27, 1953, by the American Cone & Pretzel Co., from St. Louis, Mo.

**PRODUCT:** 232 cases, each containing 36 2½-ounce packages, of pretzels, and 345 cases, each containing 12 6-ounce packages, of pretzel sticks at Long Beach, Calif.

**LABEL, IN PART:** (Packages) "Rold Gold \* \* \* Pretzels" and "Rold Gold Thin Pretzel Sticks."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** March 25, 1953. Default decree of condemnation and destruction.

**FLOUR**

**20203. Adulteration of flour. U. S. v. 920 Bags, etc. (F. D. C. No. 34899. Sample Nos. 69019-L to 69021-L, incl.)**

**LIBEL FILED:** March 23, 1953, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about August 19 and October 31, 1952, and February 13, 1953, from Wichita Falls, Tex., and Claflin, Kans.

**PRODUCT:** 920 10-pound bags and 2,100 25-pound bags of flour at Church Point, La., in the possession of Church Point Wholesale Grocery Co., Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine in all lots of the article and rodent pellets in a portion of the article; and, Section 402 (a) (4), the article had been held under insanitary conditions



whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 13, 1953. Church Point Wholesale Grocery Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed, under the supervision of the Department of Health, Education, and Welfare.

20204. Adulteration of flour. U. S. v. 55 Bags \* \* \* . (F. D. C. No. 34705. Sample No. 14678-L.)

LIBEL FILED: February 16, 1953, District of Colorado.

ALLEGED SHIPMENT: On or about September 15, 1952, from Ogden, Utah.

PRODUCT: 55 50-pound bags of flour at Trinidad, Colo., in the possession of Joe Sawaya & Sons.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 6, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

20205. Adulteration of flour. U. S. v. 21 Bags \* \* \* . (F. D. C. No. 34874. Sample No. 51046-L.)

LIBEL FILED: March 5, 1953, District of New Jersey.

ALLEGED SHIPMENT: On or about December 9, 1952, from Milwaukee, Wis.

PRODUCT: 21 100-pound bags of flour at Newark, N. J., in the possession of Griffith Laboratories, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 14, 1953. Default decree of condemnation and destruction.

### MISCELLANEOUS CEREALS

20206. Adulteration of rice. U. S. v. 239 Bags \* \* \* . (F. D. C. No. 34897. Sample No. 57831-L.)

LIBEL FILED: On or about March 16, 1953, District of Maryland.

ALLEGED SHIPMENT: On or about December 12, 1952, from Houston, Tex.

PRODUCT: 239 100-pound bags of rice at Baltimore, Md., in the possession of the Rukert Terminals Corp.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 25, 1953. The Rukert Terminals Corp., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed. On March 31, 1953, the decree was amended to provide for the segregation of the good portion and for the denaturing of the unfit portion for use as animal feed. 116½ bags of the product were found unfit and were denatured.

**20207. Adulteration of wheat. U. S. v. 120,000 Pounds \* \* \*. (F. D. C. No. 34765. Sample No. 53593-L.)**

**LIBEL FILED:** March 18, 1953, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 6, 1953, by the Dorchester Farmers Co-Op., from Dorchester, Nebr.

**PRODUCT:** 120,000 pounds of wheat at East St. Louis, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** March 24, 1953. The Dorchester Farmers Cooperative Grain & Livestock Co., having admitted that the product was not fit for human consumption, judgment of condemnation was entered and the court ordered that the product be released to the claimant for use in the manufacture of animal feed, under the supervision of the Food and Drug Administration.

**20208. Adulteration of wheat. U. S. v. 116,350 Pounds \* \* \*. (F. D. C. No. 34753. Sample No. 53591-L.)**

**LIBEL FILED:** March 13, 1953, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 4, 1953, by the Dainton & Barker Grain Co., from Milford, Nebr.

**PRODUCT:** 116,350 pounds of wheat at East St. Louis, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** March 24, 1953. The shipper, claimant, having admitted the essential allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released to the claimant to be utilized in the manufacture of animal feed, under the supervision of the Federal Security Agency.

**20209. Adulteration of wheat. U. S. v. 90,000 Pounds \* \* \*. (F. D. C. No. 34546. Sample No. 20218-L.)**

**LIBEL FILED:** January 13, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 26, 1952, by the Fairview Mill Co., from Niobe, N. Dak.

**PRODUCT:** 90,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** January 16, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court



ordered that the product be released under bond to be utilized in the manufacture of animal feed, under the supervision of the Federal Security Agency.

## DAIRY PRODUCTS

### BUTTER

**20210. Adulteration of butter. U. S. v. Otto A. Kielsmeier (Watseka Dairy Products Co.). Plea of nolo contendere. Fine of \$300, plus costs. (F. D. C. No. 30585. Sample Nos. 43365-K, 84559-K.)**

**INFORMATION FILED:** May 18, 1951. Eastern District of Illinois, against Otto A. Kielsmeier, trading as the Watseka Dairy Products Co., Watseka, Ill.

**ALLEGED VIOLATION:** On or about June 25, 1949, the defendant gave to a firm in Chicago, Ill., which was engaged in the business of shipping butter in interstate commerce, a guaranty to the effect that every article shipped by the defendant to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about September 25, 1950, the defendant shipped and delivered to the holder of the guaranty, at Chicago, Ill., a number of boxes of butter which was adulterated. In addition, the defendant shipped on or about September 6, 1950, from the State of Illinois into the State of Indiana, a number of boxes of butter which also was adulterated.

**LABEL, IN PART:** (Portion) "Watseska Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** April 16, 1953. A plea of nolo contendere having been entered, the court fined the defendant \$300, plus costs.

### CHEESE

**20211. Misbranding of pasteurized process American cheese. U. S. v. Sunette Foods, Inc., and Jacob A. Quinn. Pleas of guilty. Fine of \$50 against corporation; fine of \$50 against individual remitted. (F. D. C. No. 33716. Sample No. 5898-L.)**

**INFORMATION FILED:** January 15, 1953, Southern District of New York, against Sunette Foods, Inc., New York, N. Y., and Jacob A. Quinn, president of the corporation.

**ALLEGED SHIPMENT:** On or about November 19, 1951, from the State of New York into the State of Massachusetts.

**LABEL, IN PART:** "Sunette Brand Blended American Pasteurized Process Cheese."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for pasteurized process American cheese since it contained in its solids less than 50 percent of milk fat, the minimum permitted by the definition and standard.

**DISPOSITION:** March 25, 1953. The defendants having entered pleas of guilty, the court fined the corporation \$50 and the individual \$50. The fine against the individual was remitted.

**20212. Adulteration of swiss cheese. U. S. v. 41 Wheels \* \* \*. (F. D. C. No. 34706. Sample No. 66011-L.)**

**LIBEL FILED:** February 13, 1953, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 28, 1952, by the Staub Cheese & Butter Factory, from Waddams Grove, Ill.

**PRODUCT:** 41 170-pound wheels of swiss cheese at Monroe, Wis.

**LABEL, IN PART:** "Illinois Swiss Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 17, 1953. Default decree of forfeiture and destruction. The product was denatured for use as fish bait.

## FISH AND SHELLFISH

**20213. Adulteration and misbranding of canned mackerel. U. S. v. 50 Cases \* \* \*. (F. D. C. No. 34639. Sample No. 44607-L.)**

**LIBEL FILED:** January 30, 1953, District of Maine.

**ALLEGED SHIPMENT:** On or about November 25, 1952, by Sun-Pacific, Inc., from San Francisco, Calif.

**PRODUCT:** 50 cases, each containing 48 15-ounce cans, of mackerel at Portland, Maine.

**LABEL, IN PART:** (Can) "Sultana Brand Mackerel."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), horse mackerel (jack mackerel) had been substituted in whole or in part for Pacific mackerel.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette on the label depicting Pacific mackerel were false and misleading as applied to the article, which was horse mackerel (jack mackerel); and, Section 403 (i) (1), the label failed to bear the common or usual name of the food.

**DISPOSITION:** March 30, 1953. Franco-Italian Packing Co., Inc., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**20214. Adulteration of frozen red snappers. U. S. v. 584 Pounds \* \* \*. (F. D. C. No. 34589. Sample No. 50038-L.)**

**LIBEL FILED:** January 8, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 1, 1952, from Mobile, Ala.

**PRODUCT:** 584 pounds of frozen red snappers at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 24, 1953. Default decree of condemnation and destruction.



**20215. Misbranding of whitefish caviar. U. S. v. Smith Bros. of Port Washington, Inc. Plea of nolo contendere. Fine, \$200. (F. D. C. No. 32805. Sample Nos. 8969-L, 10273-L, 10274-L.)**

**INFORMATION FILED:** August 4, 1952, Eastern District of Wisconsin, against Smith Bros. of Port Washington, Inc., Port Washington, Wis.

**ALLEGED SHIPMENT:** On or about February 7, 1952, from the State of Wisconsin into the States of Illinois and Michigan.

**LABEL, IN PART:** "Land O'Lakes Brand Whitefish Caviar With Added Pure Carbon Packed by Smith Bros. Port Washington Wis. Net Weight 8 Oz. [or "1 Lb."]."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

**DISPOSITION:** June 22, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$200.

**20216. Adulteration of oysters. U. S. v. 144 Cans, etc. (F. D. C. No. 34593. Sample Nos. 57483-L, 57484-L.)**

**LIBEL FILED:** January 7, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about December 30, 1952, by Milton L. Drewer, from Saxis, Va.

**PRODUCT:** 144 1-pint cans of oysters standards and 64 1-pint cans of oysters selects at Jacksonville, Fla.

**LABEL, IN PART:** (Cans) "Milton Drewer's Delicious Salt Water Oysters \* \* \* Oysters Standards [or "Selects"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

**DISPOSITION:** January 12, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for consumption by the inmates.

**20217. Adulteration and misbranding of oysters. U. S. v. 144 Cans \* \* \*. (F. D. C. No. 34557. Sample No. 26246-L.)**

**LIBEL FILED:** January 16, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about January 13, 1953, by S. S. East, Inc., from Mauricetown, N. J.

**PRODUCT:** 144 1-pint cans of oysters at St. Louis, Mo.

**LABEL, IN PART:** "Oysters Counts \* \* \* Sailor Boy Brand Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

Misbranding, Section 403 (g) (2), the article purported to be and was represented as oysters counts, a food for which a definition and standard of identity has been prescribed, and the article failed to conform to the definition and standard. The definition and standard provides that raw oysters are packed without any added substance, and that oysters counts are of such size that 1 gallon contains not more than 160 oysters and 1 quart of the smallest oysters

selected therefrom contains not more than 44 oysters. The article was packed with added water, and the oysters comprising the article were of such size that 1 gallon contained more than 160 oysters and 1 quart of the smallest oysters selected therefrom contained more than 44 oysters.

DISPOSITION: February 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization for its use and not for sale.

## FRUITS AND VEGETABLES

### CANNED FRUIT

20218. Adulteration of canned pie peaches. U. S. v. 115 Cases \* \* \*. (F. D. C. No. 34943. Sample No. 2559-L.)

LIBEL FILED: April 16, 1953, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 12, 1952, from San Francisco, Calif.

PRODUCT: 115 cases, each containing 6 6-pound, 7-ounce cans, of pie peaches at Jacksonville, Fla. Examination showed that the product had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 14, 1953. Default decree of condemnation and destruction.

20219. Adulteration of canned pie peaches. U. S. v. 37 Cases \* \* \*. (F. D. C. No. 34942. Sample No. 2559-L.)

LIBEL FILED: April 16, 1953, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 12, 1952, from San Francisco, Calif.

PRODUCT: 37 cases, each containing 6 6-pound, 7-ounce cans, of pie peaches at Jacksonville, Fla. Examination showed that the product had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 14, 1953. Default decree of condemnation and destruction.

20220. Adulteration of canned strawberries. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 34573. Sample Nos. 14309-L, 69280-L.)

LIBEL FILED: January 30, 1953, District of Colorado.

ALLEGED SHIPMENT: On or about August 29, 1952, by the Washington Cannery, from Vancouver, Wash.

PRODUCT: 98 cases, each containing 6 6-pound, 6-ounce cans, of strawberries at Denver, Colo.

LABEL, IN PART: (Can) "K-M-C Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberries.

DISPOSITION: March 25, 1953. Default decree of condemnation. The court ordered that samples be delivered to the Food and Drug Administration and that the remainder be delivered to a Federal institution, for use as hog feed.



**DRIED FRUIT**

**20221. Adulteration of dried sliced apples. U. S. v. 24 Cartons \* \* \*. (F. D. C. No. 34919. Sample No. 23322-L.)**

**LIBEL FILED:** March 27, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 29, 1952, from Boston, Mass.

**PRODUCT:** 24 50-pound cartons of dried sliced apples at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 19, 1953. Weber Quality Cakes, Inc., Brooklyn, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Department of Health, Education, and Welfare. The reprocessing operations consisted of fumigating, washing, drying, and hand picking, and repacking the product into 30-pound cartons. A total of 1,123 pounds of the product were reprocessed, of which there was a loss of 9 pounds in the course of the reprocessing operations.

**20222. Adulteration of raisins. U. S. v. 269 Cartons \* \* \*. (F. D. C. No. 34543. Sample No. 8490-L.)**

**LIBEL FILED:** January 9, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about August 5, 1952, by the Bonner Packing Co., from Locans, Calif.

**PRODUCT:** 269 30-pound cartons of raisins at Albany, N. Y.

**LABEL, IN PART:** "Bonner's Select Seedless Raisins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and insect excreta.

**DISPOSITION:** March 17, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The raisins were brought into compliance with the law by washing and drying.

**VEGETABLES**

**20223. Adulteration of dried lentils. U. S. v. 167 Sacks \* \* \*. (F. D. C. No. 34533. Sample No. 16946-L.)**

**LIBEL FILED:** January 6, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about August 23 and 25, 1952, from Garfield, Wash.

**PRODUCT:** 167 100-pound sacks of dried lentils in the possession of Hamilton & Co., Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 16, 1953. Hamilton & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court

ordered that the product be released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was segregated, with the result that approximately 15½ 100-pound bags were found unfit and were denatured for sale as animal feed.

**20224. Adulteration of canned mustard greens. U. S. v. 41 Cases \* \* \*.**  
(F. D. C. No. 34752. Sample No. 34560-L.)

**LIBEL FILED:** March 19, 1953, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 17, 1953, by the Allen Canning Co., from Siloam, Ark.

**PRODUCT:** 41 cases, each containing 24 15-ounce cans, of mustard greens at Peoria, Ill.

**LABEL, IN PART:** (Can) "The Allens Fancy Mustard Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

**DISPOSITION:** April 15, 1953. Default decree of condemnation and destruction.

**20225. Misbranding of canned peas. U. S. v. 348 Cases \* \* \*.** (F. D. C. No. 34626. Sample No. 57822-L.)

**LIBEL FILED:** January 27, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about June 12, 1952, by John N. Wright, Jr., from Federalsburg, Md.

**PRODUCT:** 348 cases, each containing 24 1-pound cans, of peas at Washington, D. C.

**LABEL, IN PART:** (Can) "Wright's Pod Run Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peas since the peas were excessively mealy and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** February 24, 1953. The shipper having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**20226. Adulteration of canned brown Crowder peas. U. S. v. 257 Cases \* \* \*.**  
(F. D. C. No. 34876. Sample No. 2379-L.)

**LIBEL FILED:** March 4, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about January 20, 1953, by Delta Canning Co., Inc., from Raymondville, Tex.

**PRODUCT:** 257 cases, each containing 24 15-ounce cans, of brown Crowder peas at Atlanta, Ga.

**LABEL, IN PART:** (Can) "Frost Fresh Shelled Brown Crowder Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** April 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.



**20227. Adulteration of canned mashed sweetpotatoes. U. S. v. 33 Cases \* \* \*.**  
(F. D. C. No. 34739. Sample No. 34558-L.)

**LIBEL FILED:** March 6, 1953, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 26, 1950, from St. Francisville, La.

**PRODUCT:** 33 cases, each containing 48 11-ounce cans, of mashed sweetpotatoes at Danville, Ill.

**LABEL, IN PART:** (Can) "Marydale Mashed Louisiana Yam Sweet Potatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 8, 1953. Default decree of condemnation. The court ordered that the product be sold for use other than for human consumption.

### TOMATOES AND TOMATO PRODUCTS

**20228. Misbranding of canned tomatoes. U. S. v. 175 Cases, etc. (F. D. C. No. 34562. Sample Nos. 3274-L, 3275-L.)**

**LIBEL FILED:** January 23, 1953, Southern District of Mississippi.

**ALLEGED SHIPMENT:** On or about January 7, 1953, by Roberts Bros., Inc., from Baltimore, Md.

**PRODUCT:** 175 cases, each containing 24 15½-ounce cans, and 850 cases, each containing 48 10-ounce cans, of tomatoes at Hattiesburg, Miss.

**LABEL, IN PART:** (Can) "Roberts Big R Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** February 11, 1953. The shipper, claimant, having consented to the entry of a decree, the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

**20229. Misbranding of canned tomatoes. U. S. v. 535 Cases \* \* \*. (F. D. C. No. 34554. Sample No. 46766-L.)**

**LIBEL FILED:** On or about January 15, 1953, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about November 6, 1952, from Frankton, Ind., by the Wann Packing Co.

**PRODUCT:** 535 cases, each containing 24 1-pound cans, of tomatoes at Houston, Tex.

**LABEL, IN PART:** (Can) "Yacht Club Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** February 24, 1953. Default decree of condemnation and destruction. On February 27, 1953, the court amended the decree to provide for the delivery of the product to a charitable institution.

**20230. Misbranding of canned tomatoes. U. S. v. 99 Cases \* \* \*. (F. D. C. No. 34628. Sample No. 66946-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 12, 1952, from Preston, Md.

**PRODUCT:** 99 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Philadelphia, Pa., in the possession of Meyer Mittelman.

**RESULTS OF INVESTIGATION:** The cans of tomatoes were labeled with a substandard legend and shipped to Philadelphia, Pa., and subsequently were sold to Meyer Mittelman, who removed the substandard legend labels and applied to the cans the labels described below.

**LABEL, IN PART:** (Cans) "Farm Fresh Brand [or "Farm Fresh Brand Fancy"] Hand Packed Tomatoes Packed by Garden State Canning Co., Hightstown, N.J." and "Crown of Maryland Tomatoes \* \* \* Distributed—Not Manufactured by Preston Canning Co. Preston, Md."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statement "Packed By Garden State Canning Co., Hightstown, N. J.," appearing on the label of a portion of the article, was false and misleading as applied to this portion since it was not packed by that firm; and the statement "Fancy" appearing on the label of a portion of the article was false and misleading as applied to such portion, which was substandard in quality.

Further misbranding, Section 403 (h) (1), the article purported to be and was represented as canned tomatoes, a food for which a standard of quality has been prescribed, and its quality fell below the standard for canned tomatoes since the article contained excessive peel and the label failed to bear a statement that the article fell below the standard.

The article was misbranded in the above respects while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 26, 1953. Default decree of condemnation and destruction.

**20231. Adulteration of tomato juice. U. S. v. 40 Cases \* \* \*. (F. D. C. No. 34561. Sample No. 54213-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about August 29, 1952, by H. C. Hemingway & Co., from Clyde, N. Y.

**PRODUCT:** 40 cases, each containing 12 cans, of tomato juice at Detroit, Mich.

**LABEL, IN PART:** (Can) "Alpine Tomato Juice \* \* \* Contents 1 Qt. 14 Fl. Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

## MEAT AND POULTRY

**20232. Adulteration of dressed rabbits. U. S. v. 4 Barrels \* \* \*. (F. D. C. No. 34570. Sample No. 62513-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of Arkansas.



**ALLEGED SHIPMENT:** On or about January 7, 1953, by Paul Piazza & Sons, from Springfield, Mo.

**PRODUCT:** Rabbits. 4 barrels, each containing 72 dressed rabbits, at Little Rock, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rabbits which were contaminated with fecal matter.

**DISPOSITION:** February 27, 1953. Default decree of condemnation and destruction.

**20233. Adulteration of frozen turkeys. U. S. v. Irving Manaster Co. and Irving Manaster. Pleas of guilty. Fine of \$500, plus costs, against each defendant. (F. D. C. No. 33829. Sample Nos. 11765-L, 11766-L, 36244-L, 36419-L to 36424-L, incl., 36428-L, 36429-L.)**

**INDICTMENT RETURNED:** December 4, 1952, Northern District of Illinois, against the Irving Manaster Co., a corporation, Chicago, Ill., and Irving Manaster, president and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about April 7, May 6 and 9, and June 4, 1952, the defendants, with intent to defraud, caused quantities of frozen turkeys to be introduced and delivered for introduction into interstate commerce, at Chicago, Ill., for delivery to Cincinnati, Ohio.

**LABEL, IN PART:** "Marion Farms [or "Sunset Valley Processed Brand," "Better Quality Brand Processed," or "Indian Hill Brand Processed"] Drawn Young Tom Turkeys."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing added water was substituted in whole or in part for frozen turkeys; and, Section 402 (b) (4), water had been added to the article or mixed or packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** May 8, 1953. The defendants having entered pleas of guilty, the court imposed a fine of \$500 against each defendant, plus costs.

**20234. Adulteration of dressed poultry. U. S. v. 1,832 Pounds \* \* \*. (F. D. C. No. 34788. Sample No. 66869-L.)**

**LIBEL FILED:** March 27, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 26, 1953, by the Paramount Poultry Sales Co., from Harbeson, Del.

**PRODUCT:** 1,832 pounds of dressed poultry in 29 crates at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** April 14, 1953. The Paramount Poultry Sales Co. having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, the product was destroyed, with the exception of 15 birds which were selected by the Food and Drug Administration for exhibit purposes.

**20235. Adulteration of dressed poultry. U. S. v. 211 Pounds, etc.** (F. D. C. No. 34939. Sample Nos. 45254-L, 45255-L.)

**LIBEL FILED:** April 20, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about March 19, 1953, from Boston, Mass., by Thorndike & Gerrish, Inc.

**PRODUCT:** Dressed poultry. 211 pounds in 3 crates and 148 pounds in 2 crates at Providence, R. I.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of an animal which had died otherwise than by slaughter.

**DISPOSITION:** May 5, 1953. Default decree of condemnation and destruction.

**20236. Adulteration of dressed poultry. U. S. v. 225 Pounds \* \* \*. (F. D. C. No. 34881. Sample No. 49558-L.)**

**LIBEL FILED:** March 11, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 23, 1953, by the Fort Halifax Packing Co., from Winslow, Maine.

**PRODUCT:** 225 pounds of dressed poultry in 4 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in part the product of a diseased animal.

**DISPOSITION:** April 28, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

## NUTS AND NUT PRODUCTS

**20237. Adulteration of unshelled almonds and brazil nuts. U. S. v. 10 Bags, etc. (and 1 other seizure action).** (F. D. C. Nos. 34403, 34404. Sample Nos. 14471-L to 14473-L, incl.)

**LIBELS FILED:** December 10, 1952, District of Colorado.

**ALLEGED SHIPMENT:** On or about November 3, 1952, by the Sunset-Sternau Food Co., from Modesto, Calif.

**PRODUCT:** 10 80-pound bags of unshelled almonds and 13 100-pound bags of unshelled brazil nuts at Denver, Colo.

**LABEL, IN PART:** (Bag) "California Almonds IXL Sunset Brand Nuts" and "Large Medium Brazil Nuts."

**NATURE OF CHARGE:** Almonds. Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested almonds, and of a decomposed substance by reason of the presence of moldy almonds; and it was otherwise unfit for food by reason of the presence of gummy almonds.

Brazil nuts. Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested brazil nuts, and of a decomposed substance by reason of the presence of moldy and otherwise decomposed brazil nuts; and it was otherwise unfit for food by reason of the presence of rancid brazil nuts and empty shells.



**DISPOSITION:** February 9, 1953. The Sunset-Sternau Food Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the products be released under bond for segregation of the unfit portions, under the supervision of the Federal Security Agency. The almonds were shelled and sorted, with the result that 20 pounds of nut meats were found unfit and were destroyed. Segregation of the brazil nuts was attempted but was unsuccessful, and, accordingly, all of these nuts were denatured.

**20238. Adulteration of cashew nuts. U. S. v. 18 Cases \* \* \*. (F. D. C. No. 34646. Sample No. 23312-L.)**

**LIBEL FILED:** February 2, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** From India.

**PRODUCT:** 18 cases, each containing 2 25-pound tins, of cashew nuts at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect webbing, and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** February 20, 1953. Manhattan Nut Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. As a result of the segregation operations, 135 pounds of the nuts were found unfit and were destroyed.

**20239. Adulteration of cashew nuts. U. S. v. 3 Boxes, etc. (F. D. C. No. 34569. Sample No. 14307-L.)**

**LIBEL FILED:** January 26, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about January 3, 1953, by the Admiral Vending Co., from Los Angeles, Calif.

**PRODUCT:** 3 boxes, each containing 6 5-pound cartons, and 1 box, containing 2 5-pound cartons of cashew nuts at Englewood, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect-infested nuts.

**DISPOSITION:** March 16, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as hog feed.

**20240. Adulteration of raw peanuts. U. S. v. 150 Bags \* \* \*. (F. D. C. No. 34588. Sample No. 66700-L.)**

**LIBEL FILED:** January 7, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 25, 1952, by the Dixie Peanut Co., from Fitzgerald, Ga.

**PRODUCT:** 150 bags, each containing 150 pounds, of raw peanuts at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested peanuts.

**DISPOSITION:** January 19, 1953. The Crescent Nut & Chocolate Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be recleaned and that the unfit portion be segregated, under the supervision of the Federal Security Agency. 7,000 pounds were salvaged, and the rejected portion, amounting to 500 pounds, was denatured and destroyed.

**20241. Adulteration of unshelled walnuts. U. S. v. 25 Cases \* \* \* (and 5 other seizure actions).** (F. D. C. Nos. 33882, 33888 to 33890, incl., 33895, 33928. Sample Nos. 57321-L, 57322-L, 57324-L to 57326-L, incl., 57343-L.)

**LIBELS FILED:** Between the approximate dates of September 24 and October 15, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about August 21 and September 8, 1952, by the California Walnut Growers Association, from Los Angeles, Calif.

**PRODUCT:** 846 cases, each containing 50 1-pound bags, of unshelled walnuts at Baltimore, Md.

**LABEL, IN PART:** (Bag) "Large Size California Diamond Branded \* \* \* Walnuts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed nuts.

**DISPOSITION:** December 10, 1952. The California Walnut Growers Association, claimant, having admitted the allegations of the libels and the libel actions having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Food and Drug Administration. The nuts were shelled, after which the nut meats were examined and sorted. As a result of these operations, 1,688 pounds of nut meats were found unfit and were denatured for use as oil stock.

**20242. Adulteration of shelled walnuts. U. S. v. 4 Cases, etc. (F. D. C. No. 34710. Sample No. 54489-L.)**

**LIBEL FILED:** February 16, 1953, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about September 26, 1952, from New York, N. Y.

**PRODUCT:** 4 cases, each containing 55 pounds, of shelled walnuts, and 55 pounds of shelled walnuts in 3 cartons, at Milwaukee, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rancid nuts. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 16, 1953. Default decree of condemnation and destruction.

**20243. Adulteration of peanut butter. U. S. v. 10 Cases \* \* \*. (F. D. C. No. 34621. Sample No. 57520-L.)**

**LIBEL FILED:** January 19, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about December 10, 1952, by Producers Peanut Co., Inc., from Suffolk, Va.

**PRODUCT:** 10 cases, each containing 6 jars, of peanut butter at Washington, D. C.



**LABEL, IN PART:** (Jar) "The Peanut Kids Creamy Peanut Butter Net Wt. 5 Lbs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park for its use and not for sale.

## **SPICES, FLAVORS, AND SEASONING MATERIALS**

**20244. Adulteration of frozen green chili. U. S. v. 35 Crates \* \* \*. (F. D. C. No. 34574. Sample Nos. 39756-L, 39757-L.)**

**LIBEL FILED:** January 30, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about October 23, 1952, by Best Mexican Food, from Albuquerque, N. Mex.

**PRODUCT:** 35 crates, each containing 200 8-ounce cartons, of frozen green chili at Los Angeles, Calif.

**LABEL, IN PART:** (Carton) "Baca's Frozen Green Chili."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** March 10, 1953. Default decree of condemnation and destruction.

**20245. Adulteration of dried chili pods. U. S. v. 73 Bales \* \* \*. (F. D. C. No. 34577. Sample No. 62327-L.)**

**LIBEL FILED:** February 3, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about November 12, 1952, by the E. C. Fogal Ranch, from Huntington Beach, Calif.

**PRODUCT:** 73 bales, each containing from 145 to 244 pounds, of dried chili pods at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent-gnawed chili pods; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** March 3, 1953. E. C. Fogal, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was examined, resulting in the segregation and destruction of 302 pounds as unfit.

**20246. Adulteration of chili powder. U. S. v. 10 Drums \* \* \*. (F. D. C. No. 34906. Sample No. 39506-L.)**

**LIBEL FILED:** March 23, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 12, 1953, by Chili Products Corp., Ltd., from Los Angeles, Calif.

**PRODUCT:** 10 250-pound drums of chili powder at New York, N. Y.

LABEL, IN PART: (Drum) "Standardized X 1 Chili Powder."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hair fragments.

DISPOSITION: April 22, 1953. Default decree of condemnation and destruction.

20247. Adulteration of dried chilies. U. S. v. 43 Bags \* \* \*. (F. D. C. No. 34578. Sample No. 18032-L.)

LIBEL FILED: February 2, 1953, Southern District of California.

ALLEGED SHIPMENT: On or about December 23, 1952, by the William E. Martin Co., from New York, N. Y.

PRODUCT: 43 bags, each containing approximately 50 pounds, of dried chilies at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect excreta.

DISPOSITION: February 19, 1953. McClintock Stern Co., Inc., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was brought into compliance by crushing, screening, and blowing. 928 pounds of the product were salvaged and released to the claimant, and 1,106 pounds were denatured.

20248. Adulteration of mace. U. S. v. 8 Cases \* \* \*. (F. D. C. No. 34579. Sample No. 8543-L.)

LIBEL FILED: February 3, 1953, Western District of New York.

ALLEGED SHIPMENT: The product was imported from Indonesia by Landes & Balint, at New York, N. Y., and transported on or about November 24, 1952, by this firm to Rochester, N. Y.

PRODUCT: 8 cases, each containing 75 kilos, of mace at Rochester, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: March 2, 1953. The R. T. French Co., Rochester, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Federal Security Agency.

1,275 pounds of the product were reconditioned, with the result that 348½ pounds of tailings were obtained. The mace tailings were reprocessed by distillation.

20249. Misbranding of imitation black pepper. U. S. v. 1 Drum, etc. (F. D. C. No. 34723. Sample No. 15891-L.)

LIBEL FILED: On or about March 5, 1953, Western District of Missouri.

ALLEGED SHIPMENT: On or about January 28, 1953, by the Dan Perkins Co., from Memphis, Tenn.

PRODUCT: Imitation black pepper. 1 drum containing 325 pounds and 1 drum containing 290 pounds at Kansas City, Mo. Examination showed that the article consisted of a coarsely ground material containing approximately 25



percent salt, together with cottonseed hulls, oil of capsicum, and other plant material not resembling pepper.

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: April 21, 1953. Default decree of destruction.

20250. Misbranding of mayonnaise. U. S. v. 24 Cases \* \* \*. (F. D. C. No. 34911. Sample No. 1630-L.)

LIBEL FILED: On or about March 26, 1953, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 7, 1953, by the C. F. Sauer Co., from Greenville, S. C.

PRODUCT: 24 cases, each containing 24 jars, of mayonnaise at Atlanta, Ga.

LABEL, IN PART: (Jar) "Duke's Home Made Mayonnaise \* \* \* Contents Eight Fluid Ounces."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents Eight Fluid Ounces" was inaccurate. (Examination showed that the article was short volume.)

DISPOSITION: April 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as human food.

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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

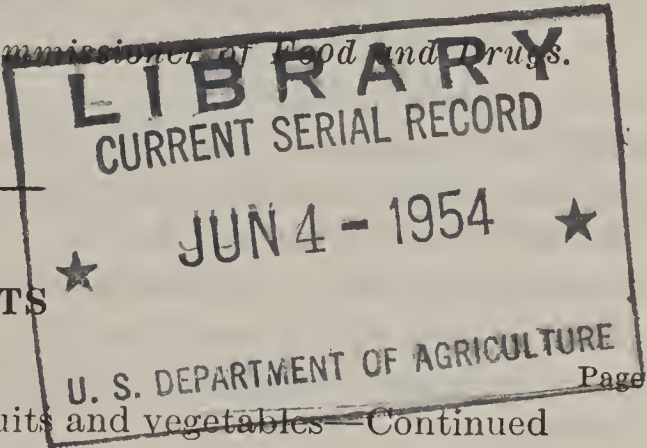
[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20251-20300

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *May 10, 1954.*



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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20251. Adulteration of bakery products. U. S. v. Castle Baking Co., Inc., and Harry Z. Jacobs.** Pleas of guilty. Fine of \$1,000 against corporation and \$500 against individual, plus costs. (F. D. C. No. 34363. Sample Nos. 10578-L to 10580-L, incl., 10582-L to 10586-L incl., 10588-L, 10593-L, 10595-L, 10596-L.)

**INFORMATION FILED:** March 9, 1953, Northern District of Illinois, against the Castle Baking Co., Inc., Chicago, Ill., and Harry Z. Jacobs, president of the corporation.

**ALLEGED SHIPMENT:** On or about October 6, 7, and 8, 1952, from the State of Illinois into the State of Indiana, of quantities of bread, coffeecake, sweet rolls, doughnuts, and fried pastry.

**LABEL, IN PART:** "100% Pumpernickle," "Cocktail Salt Rye," "Golden Zizel Rye Bread," "Egg Twist (Cha-La)," "Cocktail Snack Rye," "Vienna Bread," and "Tasty Coffee Cake."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** June 3, 1953. Pleas of guilty having been entered, the court fined the corporation \$1,000 and the individual \$500, plus costs.

**20252. Adulteration and misbranding of pumpernickel bread and Roggenbrot bread. U. S. v. Joseph Koretz and Benjamin Stern (Koster's Bakery Co.).** Pleas of guilty. Each defendant fined \$1,000 and placed on probation for 18 months. (F. D. C. No. 33815. Sample Nos. 24180-L, 24181-L, 24185-L, 24186-L.)

**INFORMATION FILED:** April 22, 1953, Eastern District of New York, against Joseph Koretz and Benjamin Stern, partners in the partnership of Koster's Bakery Co., Brooklyn, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of February 29 and April 9, 1952, from the State of New York into the State of New Jersey.

**LABEL, IN PART:** "Koster's Sliced Pumpernickel" or "Koster's Sliced Roggenbrot."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted from the articles.

Misbranding, Section 403 (a), the label statements which represented and suggested that 6 ounces of the pumpernickel bread would supply 40 percent of the minimum daily vitamin B<sub>1</sub> requirement and that 6 ounces of the Roggenbrot bread would supply 50 percent of the minimum daily vitamin B<sub>1</sub> requirement were false and misleading since the articles would not supply the amount of vitamin B<sub>1</sub> represented.

**DISPOSITION:** May 21, 1953. Pleas of guilty having been entered, the court fined each defendant \$1,000 and placed each on probation for 18 months.



**FLOUR**

**20253. Adulteration of flour. U. S. v. 6,000 Pounds, etc.** (F. D. C. No. 34952. Sample Nos 15000-L to 15003-L, incl., 61251-L to 61253-L, incl.)

**LIBEL FILED:** April 16, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about December 22, 1952, and February 25 and March 6 and 10, 1953, from Kansas City, Mo.

**PRODUCT:** 22,000 pounds of flour in bags of various sizes and 17 100-pound bags of flour at Kansas City, Kans., in the possession of the Nelson Super Merchandise Mart.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 9, 1953. Walter H. Nelson, doing business as the Nelson Super Merchandise Mart, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Department of Health, Education, and Welfare.

**20254. Adulteration of flour, rice, and flaked hominy. U. S. v. 5 Bags, etc.** (F. D. C. Nos. 34742, 34878. Sample Nos. 34565-L, 34566-L, 34567-L, 34569-L.)

**LIBEL FILED:** March 6, 1953, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 23 and December 3, 1952, and January 3, 1953, from Carlisle, Ark., North Kansas City, Mo., and Mount Vernon, Ind.

**PRODUCT:** 26 100-pound bags of flour, 7 100-pound bags of rice, and 6 50-pound bags of flaked hominy at Bloomington, Ill., in the possession of Campbell Holton & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent urine and rodent pellets; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 10, 1953. Default decree of condemnation and destruction.

**MACARONI AND NOODLE PRODUCTS**

**20255. Adulteration of a macaroni product. U. S. v. 16 Cases \* \* \*. (F. D. C. No. 34687. Sample No. 58833-L.)**

**LIBEL FILED:** February 27, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about February 9, 1953, by Milwaukee Macaroni Co., Inc., from Milwaukee, Wis.

**PRODUCT:** 16 cases, each containing 20 1-pound packages, of a macaroni product at Chicago, Ill.

**LABEL, IN PART:** (Package) "Pagliacci \* \* \* Cresta Di Gallo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect

parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 27, 1953. Default decree of condemnation and destruction.

**20256. Adulteration of spaghetti. U. S. v. 334 Boxes \* \* \*. (F. D. C. No. 34686. Sample No. 58826-L.)**

LIBEL FILED: February 27, 1953, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 27, 1953, by Milwaukee Macaroni Co., Inc., from Milwaukee, Wis.

PRODUCT: 334 60-pound boxes of spaghetti at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

**20257. Adulteration and misbranding of egg noodles. U. S. v. 47 Cases \* \* \*. (F. D. C. No. 34064. Sample No. 10573-L.)**

LIBEL FILED: September 25, 1952, Northern District of Indiana.

ALLEGED SHIPMENT: On or about August 4, 1952, by St. Louis Macaroni Mfg. Co., Inc., from St. Louis, Mo.

PRODUCT: 47 cases, each containing 12 16-ounce packages, of egg noodles at South Bend, Ind.

LABEL, IN PART: "Kris-Kros \* \* \* Noodle \* \* \* A Pur Egg Product."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, egg yolk, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement "Contents: \* \* \* not less than 5½% Pure Egg Yolk" was false and misleading as applied to the product, which contained less than 5.5 percent of egg yolk solids; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

DISPOSITION: May 26, 1953. St. Louis Macaroni Mfg. Co., Inc., having appeared as claimant and the facts of the case having been presented to the court by the claimant and by the Government, the court entered a decree of destruction and ordered that such destruction be carried out by delivery of the product to a charitable institution.

### MISCELLANEOUS CEREALS\*

**20258. Adulteration of brewers rice. U. S. v. 600 Bags \* \* \*. (F. D. C. No. 34387. Sample No. 54347-L.)**

LIBEL FILED: December 2, 1952, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 28, 1952, by the Arkansas Rice Growers Association, from De Witt, Ark.

PRODUCT: 600 100-pound bags of brewers rice at Chicago, Ill.

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\*See also No. 20254.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 8, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into stock feed, under the supervision of the Federal Security Agency.

On July 2, 1953, an amended decree was entered providing for the cleaning of the rice, for the release of the portion found fit for human consumption, and for the conversion of the unfit portion into animal feed. 415 100-pound bags of the rice were salvaged by the cleaning operation and the remainder denatured for use as animal feed.

**20259. Adulteration of wheat. U. S. v. 116,200 Pounds \* \* \*. (F. D. C. No. 34506. Sample No. 48729-L.)**

**LIBEL FILED:** December 20, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 25, 1952, by the Bowman Farmers Union Elevator, from Bowman, N. Dak.

**PRODUCT:** 116,200 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dead rats and rodent pellets.

**DISPOSITION:** May 12, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 2,120 pounds of the product were found unfit.

**20260. Adulteration of wheat. U. S. v. 111,600 Pounds \* \* \*. (F. D. C. No. 34510. Sample No. 20047-L.)**

**LIBEL FILED:** December 23, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 6, 1952, by the Farmers Union Grain Terminal Association, from New Salem, N. Dak.

**PRODUCT:** 111,600 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** May 11, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 4,190 pounds of the product were segregated for sale as animal feed.

**20261. Adulteration of wheat. U. S. v. 101,030 Pounds \* \* \*. (F. D. C. No. 34516. Sample No. 19669-L.)**

**LIBEL FILED:** December 30, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 4, 1952, by the Drayton Farmers Union Elevator, from Herrick, N. Dak.

**PRODUCT:** 101,030 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** May 11, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 8,090 pounds of the product were found unfit and were segregated for sale as animal feed.

**20262. Adulteration of wheat. U. S. v. 92,700 Pounds \* \* \*. (F. D. C. No. 34513. Sample No. 19670-L.)**

**LIBEL FILED:** December 30, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 8, 1952, by the Farmers Equity Exchange Co., from New England, N. Dak.

**PRODUCT:** 92,700 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** May 12, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 3,680 pounds of the product were found unfit and were segregated for sale as animal feed.

## DAIRY PRODUCTS

### BUTTER

**20263. Adulteration of butter. U. S. v. Stonehill Creameries Co. and Theodore B. Nickson. Pleas of guilty. Fine of \$500 against company and \$50 against individual. (F. D. C. No. 33858. Sample Nos. 36278-L, 36883-L, 49746-L.)**

**INFORMATION FILED:** January 8, 1953, District of Minnesota, against the Stonehill Creameries Co., a corporation, Tracy, Minn., and Theodore B. Nickson, manager of the corporation's creamery, at Tracy, Minn.

**ALLEGED SHIPMENT:** On or about August 23 and 27, 1952, from the State of Minnesota into the States of New Jersey and Ohio.

**LABEL, IN PART:** "June Dairy Products Co. Inc. Jersey City, N. J. Distributors Butter" and "Butter Mfd. By Stonehill Cry. Tracy, Minn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, cat hair fragments, rodent hair fragments, manure fragments, and mites, and by reason of the use of filthy cream in the preparation of the article.



**DISPOSITION:** May 20, 1953. Pleas of guilty having been entered, the court fined the corporation \$500 and the individual \$50.

**20264. Adulteration of butter. U. S. v. Holden Creamery Co. Plea of guilty.**  
Fine of \$500 on count 1; count 2 of information dismissed. (F. D. C. No. 34348. Sample Nos. 14927-L, 14928-L, 44114-L, 44115-L.)

**INFORMATION FILED:** April 21, 1953, Western District of Missouri, against the Holden Creamery Co., a corporation, Holden, Mo.

**ALLEGED SHIPMENT:** On or about July 23 and August 8, 1952, from the State of Missouri into the State of Kansas.

**LABEL, IN PART:** (Some wrappers) "Wilson's Clearbrook Creamery Butter One Quarter Pound Net Weight Wilson & Co., Inc. Distributors" and "1 Lb. Net Weight Clearbrook finest creamery Butter Ol' Fashund Roll Wilson & Co., Inc. Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect parts, rodent hairs, cat hairs, larvae fragments, feather barbules, and manure; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 1, 1953. The defendant having entered a plea of guilty, the court fined it \$500 on count 1 of the information and suspended sentence on count 2 for 60 days pending a reinspection. On June 8, 1953, following the receipt of a report that a complete investigation had been made of the defendant's plant on June 1, 1953, and that the operation of the plant had been found satisfactory to inspectors of the Department of Health, Education, and Welfare, the court ordered that count 2 of the information be dismissed.

### CHEESE

**20265. Adulteration of cheddar cheese. U. S. v. Perryville Cheese Co., Inc. Plea of guilty. Fine, \$500. (F. D. C. No. 33837. Sample No. 53127-L.)**

**INFORMATION FILED:** March 27, 1953, Eastern District of Missouri, against Perryville Cheese Co., Inc., Perryville, Mo.

**ALLEGED SHIPMENT:** On or about September 12, 1951, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce a guaranty to the effect that cheese shipped or sold by it under the guaranty would not be adulterated. On or about June 26, 1952, the defendant caused to be shipped to the holder of the guaranty, at Clinton, Mo., a quantity of cheddar cheese which was adulterated.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of small insects, fly setae, manure fragments, insect fragments, dermestid larva hairs, cow hairs, and rodent hair fragments, and by reason of the use of filth-contaminated milk in the preparation of the article.

**DISPOSITION:** April 13, 1953. A plea of guilty having been entered by the defendant, the court fined it \$500.

### FISH AND SHELLFISH

**20266. Misbranding of canned mackerel. U. S. v. 99 Cases \* \* \*. (F. D. C. No. 34630. Sample No. 44448-L.)**

**LIBEL FILED:** January 26, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about December 1, 1952, by Sun-Pacific, Inc., from San Francisco, Calif.

**PRODUCT:** 99 cases, each containing 48 15-ounce cans, of mackerel at Somerville, Mass.

**LABEL, IN PART:** (Can) "Sultana Brand Mackerel."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette which appeared on the label depicting Pacific mackerel were false and misleading since the product was horse mackerel; and, Section 403 (i) (1), the label failed to bear the common or usual name of the food.

**DISPOSITION:** April 21, 1953. The Franco-Italian Packing Co., Terminal Island, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.

**20267. Misbranding of canned salmon. U. S. v. 6 Cases \* \* \*. (F. D. C. No. 34558. Sample No. 64213-L.)**

**LIBEL FILED:** On or about January 27, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 5, 1952, from Sitka, Alaska.

**PRODUCT:** 6 cases, each containing 48 7 $\frac{3}{4}$ -ounce cans, of salmon at Seattle, Wash.

**RESULTS OF INVESTIGATION:** The product was shipped unlabeled and was labeled at Seattle, Wash. Examination showed that the product was Alaska sockeye salmon and not Quinault blueback salmon.

**LABEL, IN PART:** (Can) "Bud Linsley's Quinault Blueback Salmon."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Quinault Blueback Salmon" was false and misleading as applied to salmon other than blueback salmon caught in the Quinault River. The article was misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 18, 1953. Default decree of destruction. The court ordered that the product be delivered to a Federal institution.

**20268. Misbranding of canned sardines. U. S. v. 70 Cases \* \* \*. (F. D. C. No. 34597. Sample No. 2522-L.)**

**LIBEL FILED:** January 13, 1953, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about November 14, 1952, by the Riviera Packing Co., from Eastport, Maine.

**PRODUCT:** 70 cases, each containing 48 15-ounce cans, of sardines at Charleston, S. C. Examination showed that the article was a mixture of mature and immature sea herring.

**LABEL, IN PART:** (Can) "Sunny Island Sardines \* \* \* Distributors Roxbury Sales Co., Inc. New York and San Francisco, Cal."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the picture of a tropical island and of a California sardine, the San Francisco address, and the designation "Sardines," which appeared on the can label, were false and misleading as applied to the product, which contained mature and immature sea herring packed in Maine; and, Section 403 (b), the product was offered for sale under the name of another food, namely, sardines.

**DISPOSITION:** May 23, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court



ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.

**20269. Adulteration of oysters. U. S. v. 1 Barrel \* \* \*. (F. D. C. No. 34559. Sample No. 26249-L.)**

**LIBEL FILED:** January 21, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 14, 1953, by J. B. Robinson & Co., from Seaford, Del.

**PRODUCT:** 1 barrel containing 104 pint cans of oysters at Mankato, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** April 27, 1953. Default decree of destruction.

**20270. Misbranding of frozen breaded oysters. U. S. v. 148 Cases \* \* \*. (F. D. C. No. 33594. Sample No. 30664-L.)**

**LIBEL FILED:** October 6, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** The product was delivered for shipment from Seattle, Wash., to Dallas, Tex., by Ivar Wendt, on or about May 23, 1952.

**PRODUCT:** 148 cases, each containing 12 packages, of frozen breaded oysters at Seattle, Wash.

**LABEL, IN PART:** (Package) "Willapoint Breaded Ready to Cook Oysters Quick Frozen Net Wt. 12 Oz. [over-stamped 10 oz.] Distributors Willapoint Oysters Inc. Seattle, Wash."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since only approximately 10 ounces of breaded oysters were packed in a container capable of holding 12 ounces of breaded oysters; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short weight.)

**DISPOSITION:** June 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20271. Misbranding of canned peaches. U. S. v. 181 Cases, etc. (F. D. C. No. 34653. Sample Nos. 40882-L, 40883-L.)**

**LIBEL FILED:** February 10, 1953, District of Oregon.

**ALLEGED SHIPMENT:** On or about August 28 and October 31, 1952, by the Wapato Packing Co., from Wapato, Wash.

**PRODUCT:** 181 cases, each containing 24 1-pound, 14-ounce cans of "Chatter Box" brand peaches, and 158 cases, each containing 24 1-pound, 13-ounce cans, of "Freshie" brand peaches, at Portland, Oreg.

**LABEL, IN PART:** (Cans) "Chatter Box Elberta Peaches Halved Yellow Freestone In Extra Heavy Syrup" and "Freshie Brand Elberta Peaches Sliced Yellow Freestone in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the "Chatter Box" brand peaches purported to be and were represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear, as required by regulations, the name of the optional packing medium present in the article since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as "Heavy Syrup" in the definition and standard.

Misbranding, Section 403 (a), the vignette appearing on the label of the "Freshie" brand peaches depicting an individual serving of evenly sliced peaches was false and misleading as applied to these peaches, which contained cut and broken peach slices. Further misbranding, Section 403 (h) (1), the quality of the "Freshie" brand peaches fell below the standard of quality for canned peaches since all peach units of the article were not untrimmed, or were so trimmed as not to preserve their normal shape, and more than 5 percent of the peach slices in the container of the article were cut and broken; and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** April 6, 1953. The Wapato Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the "Chatter Box" brand peaches be released under bond for relabeling and that the "Freshie" brand peaches be disposed of by the marshal, pursuant to law. On May 14, 1953, the court ordered that the "Freshie" brand peaches under seizure, consisting of 13 cases, be released to the claimant for consumption and not for sale.

**20272. Misbranding of canned peaches. U. S. v. 249 Cases \* \* \*. (F. D. C. No. 34625. Sample No. 42403-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 19, 1952, by the A. M. Beebe Co., from San Francisco, Calif.

**PRODUCT:** 249 cases, each containing 24 1-pound, 13-ounce cans, of peaches at East Rockaway, N. Y.

**LABEL, IN PART:** (Can) "Calirose Halved Yellow Freestone Peaches Packed in Light Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peaches since the weight of the largest unit in the container was more than twice the weight of the smallest unit, and more than 20 percent of the units in the container were blemished with discoloration; and the label failed to bear a statement that the article fell below the standard.

Further misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peaches since there was not present in the container of the product the maximum quantity of the optional peach ingredient which could be sealed in the container and processed by heat so as to prevent spoilage without crushing or breaking the ingredient, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** April 28, 1953. The Pacific Grape Products Co., Modesto, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.



**20273. Misbranding of canned peaches. U. S. v. 58 Cases \* \* \*. (F. D. C. No. 34571. Sample No. 29370-L.)**

**LIBEL FILED:** February 5, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about April 4, 1951, by the A. M. Beebe Co., from San Francisco, Calif.

**PRODUCT:** 58 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Seattle, Wash.

**LABEL, IN PART:** (Can) "Exposition Brand Yellow Freestone Peaches Mixed Pieces of Irregular Sizes and Shapes In Heavy Syrup Sliced Elbertas."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear, as required by the regulations, the name of the optional packing medium present in the article since the label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as "Light Syrup" in the regulations.

**DISPOSITION:** May 28, 1953. The Alaco Preserving Co., Decoto, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

#### DRIED FRUIT

**20274. Adulteration of dried apricots. U. S. v. 100 Cases, etc. (F. D. C. No. 34688. Sample Nos. 42221-L, 42222-L.)**

**LIBEL FILED:** March 13, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about February 4, 1952, by the Richmond-Chase Co., from San Jose, Calif.

**PRODUCT:** 300 25-pound cases of dried apricots at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent excreta.

**DISPOSITION:** May 11, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed under the supervision of the Department of Health, Education, and Welfare. The product was reconditioned, with the result that 62 pounds were found unfit and were destroyed.

#### VEGETABLES

**20275. Adulteration of celery. U. S. v. 432 Crates \* \* \*. (F. D. C. No. 34437. Sample No. 36909-L.)**

**LIBEL FILED:** On or about December 17, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 29, 1952, by the Handel Co., from Lodi, Calif.

**PRODUCT:** 432 crates, each containing 24 stalks, of celery at Newark, N. J.

**LABEL, IN PART:** (Crate) "Handel \* \* \* California \* \* \* Packed by Handel Co. Lodi, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its discoloration, pithiness, and softening due to freezing.

**DISPOSITION:** January 15, 1953. Decree of condemnation and destruction.

**20276. Adulteration and misbranding of canned lima beans and misbranding of canned peas.** U. S. v. George W. Jones (Fresh Canning Co., Inc.). Plea of *nolo contendere*. Fine, \$350. (F. D. C. No. 33857. Sample Nos. 14990-L, 22700-L, 22701-L, 56512-L.)

**INFORMATION FILED:** March 6, 1953, Eastern District of Oklahoma, against George W. Jones, president of Fresh Canning Co., Inc., Spiro, Okla.

**ALLEGED SHIPMENT:** Between the approximate dates of January 16 and May 21, 1952, from the State of Oklahoma into the States of Louisiana, Tennessee, and Nebraska.

**LABEL, IN PART:** "Baby Shug Green & White Baby Lima Beans [or "Baby Shug Alaska Variety Early June Peas"] Packed By Fresh Canning Co., Spiro, Okla."

**NATURE OF CHARGE:** Lima beans. Adulteration, Section 402 (b) (2), a canned product, the vegetable ingredient of which was obtained by preparation from dried soaked lima beans, had been substituted for canned lima beans, a canned product, the vegetable ingredient of which is obtained by preparation from succulent lima beans, which the article was represented to be. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned lima beans since the vegetable ingredient was prepared from dried soaked lima beans instead of succulent lima beans as required by the standard.

Peas. Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peas, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the standard, the name of the optional pea ingredient present since the pea ingredient present consisted of dried soaked peas and the label bore the statement "Alaska Variety Early June Peas"; and, Section 403 (h) (1), the product fell below the standard of quality for canned peas of the Alaska variety since the alcohol-insoluble solids of the peas were more than 23.5 percent and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** March 31, 1953. The defendant having entered a plea of *nolo contendere*, the court fined him \$350.

**20277 Adulteration and misbranding of canned peas.** U. S. v. 142 Cases, etc. (and 1 other seizure action). (F. D. C. No. 33865. Sample Nos. 27685-L to 27687-L, incl., 41893-L, 41894-L.)

**LIBEL FILED:** September 23, 1952, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 7, 1952, by Cal State Sales, from Milton and Freewater, Oreg.

**PRODUCT:** Peas. 251 cases, each containing 6 unlabeled No. 10 cans, and 198 cases, each containing 48 unlabeled picnic size cans, at San Jose, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), (251-case lot) the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (1) and (2), (both lots) the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the con-



tents; and, Section 403 (g) (2), (both lots) the product purported to be and was represented as canned peas, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the food specified in the definition and standard and the name of the optional pea ingredient present in the product. Further misbranding, Section 403 (h) (2), (198-case lot) the product fell below the standard of fill of container for canned peas, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** November 13, 1952. Leon R. James, San Jose, Calif., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond to be reconditioned and relabeled under the supervision of the Federal Security Agency. 90 cases of the product were found unfit and were destroyed, and the remainder were satisfactorily relabeled.

**20278. Misbranding of canned dried peas. U. S. v. 24 Cases \* \* \*. (F. D. C. No. 34900. Sample No. 59419-L.)**

**LIBEL FILED:** March 20, 1953, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about January 24, 1953, by the Northwestern Canning & Packing Co., from Seffner, Fla.

**PRODUCT:** 24 cases, each containing 48 15-ounce cans, of dried peas at Augusta, Ga.

**LABEL, IN PART:** (Can) "Old Glory \* \* \* Glorified Dried Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas since the skins of more than 25 percent by count of the peas in the container of the article were ruptured to a width of  $\frac{1}{16}$  inch or more and the alcohol-insoluble solids of the peas were more than 23.5 percent, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** May 20, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

**20279. Adulteration of canned black-eyed peas. U. S. v. 96 Cases \* \* \*. (F. D. C. No. 34582. Sample No. 30248-L.)**

**LIBEL FILED:** February 11, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 3, 1952, by the Good Canning Co., from Fort Smith, Ark.

**PRODUCT:** 96 cases, each containing 24 1-pound, 4-ounce cans, of black-eyed peas at Seattle, Wash.

**LABEL, IN PART:** (Can) "Dependable Brand \* \* \* Fresh Shelled Blackeye Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect-damaged peas.

**DISPOSITION:** June 15, 1953. Default decree of condemnation and destruction.

**20280. Adulteration of canned chick-peas. U. S. v. 46 Dozen Cans \* \* \*. (F. D. C. No. 34672. Sample No. 49298-L.)**

**LIBEL FILED:** February 17, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 8, 1952, by the U. S. Canning Corp., from Long Island City, N. Y.

**PRODUCT:** 46 dozen cans of chick-peas at Bayonne, N. J.

**LABEL, IN PART:** (Can) "U. S. Brand Chick Peas Net Contents 1 Lb. 4 Ozs. Avoir."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of discoloration.

**DISPOSITION:** May 14, 1953. Default decree of condemnation and destruction.

**20281. Misbranding of canned brown Crowder peas. U. S. v. 198 Cases \* \* \*. (F. D. C. No. 34902. Sample No. 2381-L.)**

**LIBEL FILED:** On or about March 26, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about February 6, 1953, by Delta Canning Co., Inc., from Raymondville, Tex.

**PRODUCT:** 198 cases, each containing 24 15-ounce cans, of brown Crowder peas at Atlanta, Ga.

**LABEL, IN PART:** (Can) "Fresh Shelled Frost Brown Crowder Peas."

**NATURE OF CHARGE:** Adulteration, Section 403 (a), the label statement "Fresh Shelled \* \* \* Crowder Peas" was false and misleading as applied to the product, which was soaked dried field peas of clay variety.

**DISPOSITION:** April 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as human food.

### **TOMATOES AND TOMATO PRODUCTS**

**20282. Adulteration of canned tomatoes. U. S. v. 1,296 Cases \* \* \*. (F. D. C. No. 34522. Sample No. 36484-L.)**

**LIBEL FILED:** January 5, 1953, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about August 12 and 26 and September 8, 1952, by the G. S. Suppiger Co., from Lebanon, Ind.

**PRODUCT:** 1,296 cases, each containing 24 1-pound cans, of tomatoes at Louisville, Ky.

**LABEL, IN PART:** (Can) "Brooks Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** April 1, 1953. The G. S. Suppiger Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the portion of the product coded "OHB - 8" should be segregated into a special lot and released to the claimant for sale and that the remainder of the product should be brought into compliance with the law, all under the supervision of the Federal Security Agency. Pursuant to the decree, 425 $\frac{1}{3}$  cases of the product were segregated and released to the claimant and the remainder reprocessed into barbecue sauce.

**20283. Adulteration of canned tomatoes. U. S. v. 1,235 Cases \* \* \*. (F. D. C. No. 34492. Sample No. 53179-L.)**

**LIBEL FILED:** December 18, 1952, Western District of Missouri.



**ALLEGED SHIPMENT:** On or about October 13, 1952, by the G. S. Suppiger Co., from Lebanon, Ind.

**PRODUCT:** 1,235 cases, each containing 24 1-pound cans, of tomatoes at Springfield, Mo.

**LABEL, IN PART:** (Can) "Yellow Bonnet Brand Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** April 8, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 1,048 cases and 303 cans were salvaged and released to the claimant, and 49 cans were denatured.

**20284. Adulteration of canned tomatoes. U. S. v. 8 Cases, etc. (F. D. C. Nos. 34443, 34444. Sample Nos. 66832-L, 66848-L.)**

**LIBEL FILED:** January 6, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** During September and October 1952, by Peter A. Capizola, from Buena, N. J.

**PRODUCT:** Canned tomatoes. 7 cases at Easton, Pa., and 813 cases at Bridgeport, Pa., each case containing 24 1-pound, 12-ounce cans.

**LABEL, IN PART:** (Can) "Norris Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under unsanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 29, 1953. Default decree of condemnation and destruction.

**20285. Adulteration and misbranding of canned tomatoes. U. S. v. 934 Cases \* \* \*. (F. D. C. No. 34514. Sample No. 53439-L.)**

**LIBEL FILED:** December 29, 1952, Eastern District of Missouri; amended libel filed January 12, 1953.

**ALLEGED SHIPMENT:** On or about October 9, 1952, by Searle Food Corp., from Kirklin, Ind.

**PRODUCT:** 934 cases, each containing 24 cans, of tomatoes at St. Louis, Mo.

**LABEL, IN PART:** (Can) "Royal Guest Net Contents 1 Lb. 3 Oz. Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (2), the article failed to conform to the definition and standard of identity for canned tomatoes. The definition and standard provides that when calcium salts is added to canned tomatoes, the label shall bear a statement that calcium salts had been added. The label of the article failed to bear a statement that calcium salts had been added.

**DISPOSITION:** June 22, 1953. Default decree of condemnation and destruction.

**20286. Adulteration and misbranding of canned tomatoes. U. S. v. 111 Cases, etc. (F. D. C. No. 34383. Sample Nos. 19937-L, 19939-L.)**

**LIBEL FILED:** December 1, 1952, District of South Dakota.

**ALLEGED SHIPMENT:** On or about September 19, 1952, by the Gwynneville Canning Co., from Gwynneville, Ind.

**PRODUCT:** 111 cases and 325 cases, each case containing 24 cans, of tomatoes at Aberdeen, S. Dark.

**LABEL, IN PART:** (Can) "Co-Op Best Quality Tomatoes \* \* \* Contents 1 Lb. Avoir. Grade A" and "Co-Op Tomatoes Contents 1 Lb. 3 Oz. \* \* \* Grade B."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article in the 111-case lot consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (2), the label of the article in the 325-case lot failed to bear, as required by the definition and standard of identity for canned tomatoes, the name of the optional ingredient, calcium, present in the article.

**DISPOSITION:** January 26, 1953. The Gwynneville Canning Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling of the 325-case lot and for segregation of the unfit portion in the 111-case lot, under the supervision of the Food and Drug Administration. Thereafter, the claimant indicated that it did not desire to carry on segregation operations with respect to the 111-case lot, and, accordingly, this lot was destroyed. The 325-case lot was relabeled.

**20287. Adulteration of tomato juice. U. S. v. 1,200 Cases \* \* \*. (F. D. C. No. 34544. Sample No. 35876-L.)**

**LIBEL FILED:** January 9, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 12 and December 10 and 16, 1952, by the Gwynneville Canning Co., from Gwynneville, Ind.

**PRODUCT:** 1,200 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Cincinnati, Ohio.

**LABEL, IN PART:** (Can) "Patsy Ann Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 15, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Department of Health, Education, and Welfare. Segregation operations resulted in the rejection and destruction of 569 cases as unfit.

**20288. Adulteration of tomato juice. U. S. v. 70 Cases, etc. (F. D. C. No. 34609. Sample Nos. 38908-L, 38909-L.)**

**LIBEL FILED:** On or about January 20, 1953, Western District of Virginia.

**ALLEGED SHIPMENT:** On or about October 31, 1952, by the Winorr Canning Co., from Wauseon, Ohio.

**PRODUCT:** 70 cases, each containing 24 1-pint, 2-fluid-ounce cans, and 59 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Bedford, Va.

**LABEL, IN PART:** (Can) "Plee-Zing Tomato Juice."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 27, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use other than for human consumption.

**20289. Adulteration of tomato juice. U. S. v. 118 Cases \* \* \*. (F. D. C. No. 34650. Sample No. 33485-L.)**

**LIBEL FILED:** February 6, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about December 18, 1952, by Shuttleworth Foods, Inc., from Warren, Ind.

**PRODUCT:** 118 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Chicago, Ill.

**LABEL, IN PART:** (Can) "Dinner Party Brand Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 27, 1953. Default decree of condemnation and destruction.

**20290. Adulteration of tomato juice. U. S. v. 26 Cases \* \* \*. (F. D. C. No. 34517. Sample No. 20295-L.)**

**LIBEL FILED:** December 30, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about October 24, 1952, by the Indiana Packing Co., from Royal Center, Ind.

**PRODUCT:** 26 cases, each containing 24 1-pint, 2-fluid-ounce cans, of tomato juice at St. Paul, Minn.

**LABEL, IN PART:** (Can) "Standby Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** April 17, 1953. The Indiana Packing Co., claimant, having filed an answer denying that the product was adulterated and later having indicated that it did not intend to contest the matter further, judgment was entered ordering that the product be denatured for use as animal feed or be destroyed.

## NUTS AND NUT PRODUCTS

**20291. Adulteration of roasted salted almonds. U. S. v. 20 Tins \* \* \*. (F. D. C. No. 34526. Sample No. 20239-L.)**

**LIBEL FILED:** January 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about October 8, 1952, by A. L. Razzini, from New York, N. Y.

**PRODUCT:** 20 5-pound tins of roasted salted almonds at St. Paul, Minn.

**LABEL, IN PART:** "Tiny Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts.

**DISPOSITION:** April 16, 1953. A default decree was entered ordering that the product be denatured for use as animal feed or be destroyed.

20292. Adulteration of filberts. U. S. v. 10 Bags \* \* \*. (F. D. C. No. 34542. Sample No. 20248-L.)

**LIBEL FILED:** January 10, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 3, 1952, by Rosenberg Bros. & Co., from Portland, Oreg.

**PRODUCT:** 10 100-pound bags of filberts at St. Paul, Minn.

**LABEL, IN PART:** "Ensign Brand Oregon No. 1 Medium Barcelona Filberts."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts, and of a decomposed substance by reason of the presence of moldy nuts.

**DISPOSITION:** April 15, 1953. A default decree was entered ordering that the product be denatured for use as animal feed or be destroyed.

20293. Adulteration of unshelled pecans. U. S. v. 38 Cases \* \* \*. (F. D. C. No. 34490. Sample No. 40946-L.)

**LIBEL FILED:** December 16, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about November 4, 1950, from Albany, Ga.

**PRODUCT:** 38 cases, each containing 25 1-pound bags, of unshelled pecans at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged pecans, and of a decomposed substance by reason of the presence of moldy pecans; and the article was otherwise unfit for food by reason of the presence of rancid pecans. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 18, 1953. Default decree of condemnation and destruction.

20294. Adulteration of peanut butter. U. S. v. 12 Cases, etc. (F. D. C. No. 34425. Sample Nos. 39453-L, 39454-L.)

**LIBEL FILED:** On or about December 12, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about November 12, 1952, by Producers Peanut Co., Inc., from Suffolk, Va.

**PRODUCT:** 25 cases, each containing 24 8-ounce jars, of peanut butter at Baltimore, Md.

**LABEL, IN PART:** (Jars) "Kitchen Chef Creamy—Homogenized Peanut Butter" or "The Peanut Kids \* \* \* Homogenized Creamy \* \* \* Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 6, 1953. The Producers Peanut Co., Inc., claimant, having withdrawn its claim, judgment of condemnation and destruction was entered.

## POULTRY

20295. Adulteration of frozen dressed poultry. U. S. v. 7,500 Pounds \* \* \*. (F. D. C. No. 34552. Sample Nos. 31650-L, 34768-L.)

**LIBEL FILED:** January 15, 1953, Western District of Arkansas.



**ALLEGED SHIPMENT:** On or about November 14, 1952, by H. L. Brown & Sons, Inc., from Chicago, Ill.

**PRODUCT:** 7,500 pounds of frozen dressed poultry at Van Buren, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** March 2, 1953. Default decree of condemnation and destruction. On March 6, 1953, the court entered an amended decree providing for delivery of the product to a rendering company to make tankage or fat.

**20296. Adulteration of dressed turkeys. U. S. v. 20 Crates \* \* \*. (F. D. C. No. 34377. Sample No. 49540-L.)**

**LIBEL FILED:** November 28, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by the Christofferson Poultry Egg & Feed Market, from Turlock, Calif.

**PRODUCT:** 20 crates, containing approximately 1,965 pounds, of dressed turkeys at Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** April 2, 1953. Default decree of condemnation. The court ordered that 12 turkeys be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20297. Adulteration of dressed turkeys. U. S. v. 225 Pounds \* \* \*. (F. D. C. No. 34415. Sample No. 49543-L.)**

**LIBEL FILED:** December 11, 1952, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 18, 1952, by the Caroline Poultry Farms, from Federalsburg, Md.

**PRODUCT:** 225 pounds of dressed turkeys at Newark, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** January 28, 1953. Default decree of condemnation and destruction. On April 2, 1953, an amended decree was entered providing for the delivery of the product to the Food and Drug Administration, for experimental and enforcement purposes, and for the destruction of that portion which was not used for those purposes.

**20298. Misbranding of chicken gizzards, spaghetti and chicken livers, chicken broth, and chicken a la king. U. S. v. 25 Cans, etc. (F. D. C. No. 34446. Sample Nos. 54833-L to 54836-L, incl.)**

**LIBEL FILED:** December 22, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** Between the approximate dates of July 28 and October 15, 1952, by the Badger Fruit & Extract Co., from Kenosha, Wis.

**PRODUCT:** 25 cans and 8 cases, each containing 12 cans, of chicken gizzards; 18 cans of spaghetti and chicken livers; 9 cans of chicken broth; and 16 cans of chicken a la king, at Chicago, Ill.

**LABEL, IN PART:** (Can) "Cloverblossom Chicken Gizzards Contents 1 Lb. [or "Net Weight 3 Lbs. 4 Ozs.]"]; "Net Weight 3 Lbs. 4 Ozs. Cloverblossom \* \* \* Spaghetti & Chicken Livers"; "Net Weight 3 Lbs. 4 Ozs. Cloverblossom \* \* \* Condensed—Clear Chicken Broth"; "Cloverblossom Net Weight 3 Lbs. 4 Ozs. Chicken Ala King."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear a label containing an accurate statement of the quantity of the contents since the label statements "Contents 1 Lb." and "Net Weight 3 Lbs. 4 Ozs." were inaccurate. (Examination showed that the articles were short weight.)

**DISPOSITION:** June 25, 1953. No claimant having appeared, judgment of condemnation was entered. The court ordered that the products be destroyed since it appeared that the cans were swelling and leaking.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE\*

**20299. Adulteration and misbranding of vitamin and mineral combination capsules. U. S. v. 106 Bottles \* \* \*. (F. D. C. No. 34692. Sample No. 56474-L.)**

**LIBEL FILED:** March 2, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about July 9, 1951, from Los Angeles, Calif.

**PRODUCT:** 22 bottles, each containing 30 capsules, and 84 bottles, each containing 75 capsules, of vitamin and mineral combination capsules at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>6</sub> and vitamin C, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "One \* \* \* Tablet \* \* \* provides \* \* \* Vitamin B<sub>6</sub> \* \* \* 0.25 Mg. Vitamin C \* \* \* 75 Mg. 250% MDR" was false and misleading as applied to the article, which contained less than the stated amounts of vitamin B<sub>6</sub> and vitamin C.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 20, 1953. Default decree of condemnation and destruction.

**20300. Misbranding of Camson Brand Trael Trace Mineral Concentrate. U. S. v. 19 Drums \* \* \*. (F. D. C. No. 34147. Sample No. 14514-L.)**

**LIBEL FILED:** November 25, 1952, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 22, 1952, by the Campbell-Hudson Co., from Rochelle, Ill.

**PRODUCT:** 19 drums, each containing 25 pounds, of Camson Brand Trael Trace Mineral Concentrate and a number of circulars entitled "Inorganic Elements in Harmonious Proportions" at Denver, Colo.

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\*See also No. 20252.



**LABEL, IN PART:** "Camson Brand Trael Trace Mineral Concentrate \* \* \* Ingredients: Cobalt Sulphate Copper Sulphate Zinc Sulphate Manganese Sulphate Magnesium Sulphate Iron Sulphate Dextrose Anise."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements and designs on the drum label, in a leaflet within the drum, and in the accompanying circulars were false and misleading. The statements and designs represented and suggested that all of the inorganic components of the article possessed nutritional value for cattle, sheep, and hogs; that deficiencies of these substances exist in the rations of such animals; that the proportions of them incorporated in the article have some scientific or rational basis; and that feeding the article to animals as recommended would result in their over-all improvement. There exists no known deficiency of manganese or zinc in the rations for cattle, sheep, and hogs; there is no recognized need for cobalt in the diet of hogs; there is no scientific or rational basis for the proportions of the several ingredients of the article; feeding the article to animals as recommended would not result in their over-all improvement; and the article would not fulfill the promises of benefit made and implied by such statements and designs.

**DISPOSITION:** January 16, 1953. Default decree of condemnation and destruction.

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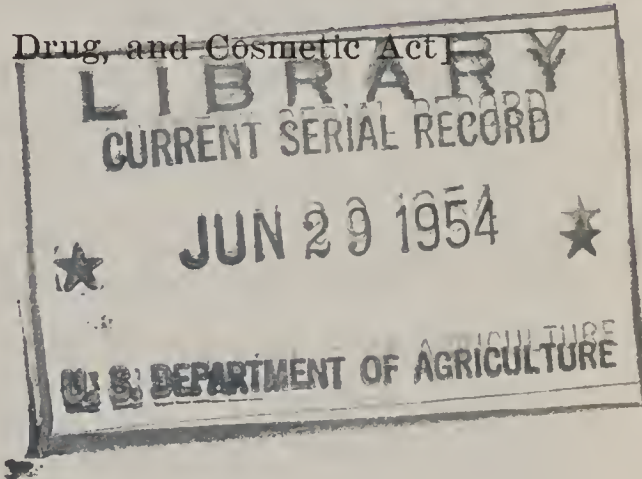
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20301-20350

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *May 26, 1954.*

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**BEVERAGES AND BEVERAGE MATERIALS\***

**20301. Adulteration of root beer. U. S. v. I. B. C. Root Beer Co. and Jacob Shucart. Pleas of nolo contendere. Fine of \$500 against company and \$250 against individual. (F. D. C. No. 33860. Sample No. 53744-L.)**

**INFORMATION FILED:** March 2, 1953, Eastern District of Missouri, against the I. B. C. Root Beer Co., a corporation, St. Louis, Mo., and Jacob Shucart, president and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about September 2, 1952, from the State of Missouri into the State of Illinois.

**LABEL, IN PART:** "I. B. C. Root Beer."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 3, 1953. The defendants having entered pleas of nolo contendere, the court fined the company \$750 and the individual \$250. On July 29, 1953, the court entered an order reducing the fine against the company to \$500.

**20302. Adulteration and misbranding of coffee. U. S. v. 376 Cans \* \* \*. (F. D. C. No. 34649. Sample No. 51598-L.)**

**LIBEL FILED:** February 9, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 12, 1953, by the North American Sweets Corp., from Brooklyn, N. Y.

**PRODUCT:** 376 cans of coffee at Passaic, N. J.

**LABEL, IN PART:** "Harvest House Quality Coffee Product Pure Coffee Combined With Added Dextrins & Maltose Coffee Lovers Say 'Best Cut Ever' \* \* \* Net Wt. 15 Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (4), a cereal product had been added to the article and mixed and packed with it so as to increase its bulk and weight and reduce its quality.

Misbranding, Section 403 (a), the label statements "Quality Coffee Product \* \* \* Coffee Lovers Say \* \* \* All Purpose Grind \* \* \* Fresh Roasted" were false and misleading since these statements implied that the article was roasted and ground coffee without additives. Further misbranding, Section 403 (d), the container was so filled as to be misleading since only 15 ounces of the product were packed in a standard size 1-pound can; and, Section 403 (f), the information required by law to appear on the label, namely, the statement of the quantity of the contents, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, and devices on the label) as to render such statement likely to be read by the ordinary individual under customary conditions of purchase and use since the statement of the quantity of the contents was printed on the side rear portion of the label.

**DISPOSITION:** April 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization for its use and not for sale.

**20303. Adulteration of green coffee. U. S. v. 50 Bags \* \* \*. (F. D. C. No. 33523. Sample No. 37864-L.)**

**LIBEL FILED:** August 26, 1952, Eastern District of New York.

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\*See also Nos. 20332-20336, 20348.



**ALLEGED SHIPMENT:** On or about April 21, 1952, from Haiti.

**PRODUCT:** 50 bags each containing 160 pounds, of green coffee at Brooklyn, N. Y.

**LABEL, IN PART:** (Bag) "Standard Coffee Triages Product of Haiti Green Coffee S C I Selected Haiti 447 P."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of manure and other extraneous material.

**DISPOSITION:** March 26, 1953. The Brazilian Minerals & Timbers Corp., New York, N. Y., agent for Societe Industrielle Capoise Cap-Haitien, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed and repacked under the supervision of the Food and Drug Administration. As a result of the reprocessing operations, 1,738 pounds of the product were found unfit and were denatured.

**20304. Adulteration of coffee sweepings. U. S. v. 300 Pounds \* \* \*. (F. D. C. No. 34957. Sample No. 50867-L.)**

**LIBEL FILED:** April 17, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** The product was imported from a foreign country on an unknown date.

**PRODUCT:** 300 pounds of coffee sweepings in 3 bags at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirt, stones, and miscellaneous debris. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 29, 1953. Default decree of condemnation and destruction.

**20305. Adulteration of coffee sweepings and cocoa sweepings. U. S. v. 10 Bags, etc. (F. D. C. No. 34148. Sample Nos. 37882-L, 37883-L.)**

**LIBEL FILED:** November 24, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** At different times from various foreign countries.

**PRODUCT:** 10 bags of coffee sweepings and 2 bags of cocoa sweepings at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of dirt, wood splinters, rodent excreta, and extraneous material. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 18, 1953. Default decree of condemnation and destruction.

## CANDY AND SIRUP

### CANDY

**20306. Misbranding of candy. U. S. v. 41 Cases \* \* \*. (F. D. C. No. 34693. Sample No. 44530-L.)**

**LIBEL FILED:** March 2, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about January 12, 1953, by the Windsor Toffee Co., from Brooklyn, N. Y.

**PRODUCT:** 41 cases, each containing 24 bags, of candy at Boston, Mass.

**LABEL, IN PART:** (Bag) "Net Weight One Pound Windsor Famous English Style Assorted Flavor Toffees."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The bags contained less than the labeled weight.)

**DISPOSITION:** April 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**20307. Misbranding of candied popcorn. U. S. v. 122 Bags \* \* \*. (F. D. C. No. 34691. Sample No. 44798-L.)**

**LIBEL FILED:** February 27, 1953, District of New Hampshire.

**ALLEGED SHIPMENT:** On or about December 11, 1952, by the R. L. Stiles Co., from Stoneham, Mass.

**PRODUCT:** 122 bags, each containing 12 3½-ounce packages, of candied popcorn at Manchester, N. H.

**LABEL, IN PART:** (Package) "Stiles Krispee-Kon Molasses Made with Sugar, Corn Syrup, Molasses, Pop Corn, Vegetable Oil, and Salt."

**NATURE OF CHARGE:** Misbranding, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.

**DISPOSITION:** March 26, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

### SIRUP

**20308. Adulteration and misbranding of sorghum sirup. U. S. v. 84 Cases \* \* \*. (F. D. C. No. 34761. Sample No. 61423-L.)**

**LIBEL FILED:** March 17, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about February 18, 1953, from Wichita, Kans., by Fleming Co., Inc.

**PRODUCT:** 84 cases, each containing 12 4½-pound cans, of sorghum sirup at Oklahoma City, Okla.

**LABEL, IN PART:** (Can) "New Crop Sorghum Packed for Ray Sloan Van Buren, Ark."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of glucose and sorghum.

**DISPOSITION:** April 17, 1953. Fleming Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Food and Drug Administration.

**20309. Misbranding of sirup. U. S. v. 43 Cases \* \* \*. (F. D. C. No. 34716. Sample No. 46886-L.)**

**LIBEL FILED:** February 25, 1953, Southern District of Alabama.

**ALLEGED SHIPMENT:** On or about January 31, 1953, by J. E. Jones, from Conehatta, Miss.

**PRODUCT:** 43 cases, each containing 12 5-pound buckets, of sirup at Selma, Ala.

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manu-



facturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: April 24, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCT

20310. Adulteration and misbranding of enriched bread. U. S. v. Walla Walla Baking Co. Plea of guilty. Fine, \$350. (F. D. C. No. 34318. Sample Nos. 30590-L, 30611-L to 30616-L, incl.)

INFORMATION FILED: March 12, 1953, Eastern District of Washington, against the Walla Walla Baking Co., a corporation, Walla Walla, Wash.

ALLEGED SHIPMENT: On or about May 29 and 31, 1952, from the State of Washington into the State of Oregon.

LABEL, IN PART: "Adams' Master White Sliced Enriched Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), portions of the article consisted in part of filthy substances by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), portions of the article had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), certain statements on the label of a portion of the article were false and misleading. The statements represented and suggested that one-half pound of the article would provide at least the following amounts and percentages of the minimum daily requirements of essential food substances: thiamine (vitamin B<sub>1</sub>) 55 percent; riboflavin (vitamin B<sub>2</sub>) 17.5 percent; niacin 5 milligrams; and iron 40 percent. One-half pound of the article would provide less than those percentages and amounts of thiamine, riboflavin, niacin, and iron.

DISPOSITION: July 13, 1953. The defendant having entered a plea of guilty, the court fined it \$350.

### CORNMEAL

20311. Adulteration of cornmeal. U. S. v. D. L. Morris Milling Co., Inc., and Dick L. Morris. Pleas of nolo contendere. Fine of \$400, plus costs, against corporation. Sentence against individual suspended for 60 days; charges against individual subsequently dismissed. (F. D. C. No. 34359. Sample Nos. 62123-L, 62126-L, 62130-L, 62131-L.)

INFORMATION FILED: May 5, 1953, Western District of Missouri, against D. L. Morris Milling Co., Inc., Ritchey, Mo., and Dick L. Morris, president of the corporation.

ALLEGED SHIPMENT: On or about September 2, 5, and 16, 1952, from the State of Missouri into the State of Arkansas.

LABEL, IN PART: "The Shoal Creek Mills Fresh White Corn Meal Manufactured By The D. L. Morris Milling Co. Inc., Ritchey, Missouri 25 Lbs." and "5 Lbs. The Honey Creek Mill White Corn Meal D. L. Morris Milling Co. Southwest City, Missouri."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: June 12, 1953. The defendants having entered pleas of nolo contendere, the court fined the corporation \$400, plus costs, and suspended sentence against the individual for 60 days pending reinspection of the mill. On September 4, 1953, upon the basis of a showing that the individual had decided to go out of the milling business, the court dismissed the charges against the individual.

### FLOUR

20312. Adulteration of flour. U. S. v. 214 Bags \* \* \*. (F. D. C. No. 34915. Sample No. 14326-L.)

LABEL FILED: March 27, 1953, District of New Mexico.

ALLEGED SHIPMENT: On or about January 31, 1953, from Lamar, Colo.

PRODUCT: 214 25-pound bags of flour at Gallup, N. Mex., in the possession of the Gallup Mercantile Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3) the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 28, 1953. The Gallup Mercantile Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as livestock feed, under the supervision of the Department of Health, Education, and Welfare.

### MISCELLANEOUS CEREALS

20313. Adulteration and misbranding of pulverized white oats. U. S. v. Flambeau Milling Co. and Frank Rabenowich. Pleas of not guilty. Tried to the court. Verdicts of guilty against corporation and not guilty against individual. Fine of \$1,000, plus costs, against corporation. (F. D. C. No. 31590. Sample Nos. 198-L, 4272-L.)

INFORMATION FILED: March 27, 1952, Western District of Wisconsin, against the Flambeau Milling Co., a corporation, Phillips, Wis., and Frank Rabenowich, vice president of the corporation.

ALLEGED SHIPMENT: On or about March 16 and 23, 1951, from the State of Wisconsin into the States of Maryland and Virginia.

LABEL, IN PART: (Tags attached to bags) "Pulverized White Oats \* \* \* Manufactured and Packed By Flambeau Milling Co. Phillips, Wis."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a wheat product in one shipment of the article and a ground wheat product, white beans, weed seeds, barley, and other grains in the other shipment of the article had been substituted in part for pulverized white oats; and, Section 402 (b) (4), a wheat product in one shipment of the article and a ground wheat product, white beans, weed seeds, barley, and other grains in the other shipment of the article had been added to the article and mixed and packed with it so as to increase its bulk and weight, reduce its quality, and make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the label statement "Pulverized White Oats" was false and misleading.



**DISPOSITION:** May 6, 1953. Pleas of not guilty having been entered, the case came on for trial before the court without a jury, and at its conclusion, the court returned a verdict of guilty against the corporation and a verdict of not guilty against the individual. The court imposed a fine of \$1,000, plus costs, against the corporation.

**20314. Action to enjoin and restrain the doing of certain acts resulting in the adulteration of articles of food after shipment in interstate commerce. U. S. v. Casaus Bros. Food Brokers and Victor L. de Casaus. Temporary restraining order and preliminary injunction entered. Preliminary injunction and complaint for injunction subsequently dismissed. (Inj. No. 250.)**

**COMPLAINT FILED:** June 27, 1952, Southern District of California, against Casaus Bros. Food Brokers, a partnership, Los Angeles, Calif., and Victor L. de Casaus, a partner in the partnership. The parties were engaged in storing and selling various products, such as rice, beans, chili peppers, peas, and corn.

**NATURE OF CHARGE:** The defendants had been and were, at the time of the filing of the complaint, placing and causing to be placed in a building infested with rodents and insects and exposing and causing to be exposed to contamination by rodents and insects the above-mentioned products while they were held for sale after shipment in interstate commerce. These acts of the defendants resulted in the products being adulterated within the meaning of Section 402 (a) (3), in that the products consisted in part of filthy substances by reason of the presence of rodent and insect filth; and, Section 402 (a) (4), in that the products were held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** On June 27, 1952, a temporary restraining order was entered by which the defendants were temporarily restrained and enjoined from doing any act or causing any act to be done with respect to any article of food while held for sale after shipment in interstate commerce, which would result in such article being adulterated within the meaning of Section 402 (a) (3) and (4).

Pursuant to stipulation of the parties, an order was entered on July 2, 1952, extending the period in which the temporary restraining order should continue in effect.

On July 16, 1952, with the consent of the defendants, an order was entered granting a preliminary injunction by which the defendants were enjoined and restrained from doing the acts complained of during the pendency of the action.

On October 16, 1953, the court having been advised that the preliminary injunction had served its purpose in effecting compliance with the Act, an order was entered dissolving the preliminary injunction and dismissing the complaint for injunction without prejudice.

**20315. Adulteration of wheat. U. S. v. 120,600 Pounds \* \* \*. (F. D. C. No. 34768. Sample No. 20546-L.)**

**LIBEL FILED:** March 21, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 24, 1953, by the Occident Elevator, from Conrad, Mont.

**PRODUCT:** 120,600 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is

unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** April 3, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by scouring under the supervision of the Federal Security Agency. As a result of the reprocessing operations, 2,950 pounds of the product were found unfit and were destroyed.

**20316 Adulteration of wheat. U. S. v. 1,600 Bushels \* \* \*. (F. D. C. No. 34523. Sample No. 20375-L.)**

**LIBEL FILED:** January 3, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 9, 1952, by the Farmers Grain & Fuel Co., from Claire City, S. Dak.

**PRODUCT:** 1,600 bushels of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** May 12, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 5,510 pounds of the product were found unfit.

## DAIRY PRODUCTS

### BUTTER

**20317. Adulteration of butter, U. S. v. 16 Boxes (960 pounds) \* \* \*. (F. D. C. No. 34169. Sample No. 20482-L.)**

**LIBEL FILED:** May 1, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 22, 1953, by the Spring Hill Creamery Co., from Melrose, Minn.

**PRODUCT:** 16 60-pound boxes of butter at Philadelphia, Pa.

**LABEL, IN PART:** "Distributed By C. W. Dunnet & Co. Phila. Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 12, 1953. C. W. Dunnet & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

**20318. Adulteration of butter. U. S. v. 28 Cubes (1,904 pounds) \* \* \*. (F. D. C. No. 34171. Sample No. 43680-L.)**

**LIBEL FILED:** May 6, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 25, 1953, by the Reedsport Creamery, from Reedsport, Oreg.

**PRODUCT:** 28 68-pound cubes of butter at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.



**DISPOSITION:** June 3, 1953. The Wilsey-Bennett Co., San Francisco, Calif., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

### CHEESE

**20319. Misbranding of muenster cheese. U. S. v. 48 Carton \* \* \*. (F. D. C. No. 34972. Sample Nos. 51678-L, 51679-L.)**

**LIBEL FILED:** April 28, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 8, 1953, by Joe Schmid, from Beaver Dam, Wis.

**PRODUCT:** 48 cartons, each containing 6 5-pound loaves or round units, of muenster cheese at New York, N. Y.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Made From Pasteurized Milk" was false and misleading as applied to the product, which was made from milk which had not been pasteurized.

Further misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for muenster cheese since the article was made from milk which had not been pasteurized.

**DISPOSITION:** May 26, 1953. Default decree of condemnation and destruction.

### FISH AND SHELLFISH

**20320. Adulteration of frozen tullibeas. U. S. v. J. Kozloff Fish, Inc. Plea of nolo contendere. Fine, \$700. (F. D. C. No. 33824. Sample No. 48754-L.)**

**INFORMATION FILED:** November 14, 1952, Eastern District of Michigan, against J. Kozloff Fish, Inc., Detroit, Mich.

**ALLEGED SHIPMENT:** On or about March 27, 1952, from the State of Michigan into the State of Minnesota.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** July 10, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$700.

**20321. Misbranding of canned tuna flakes. U. S. v. 81 Cases \* \* \*. (F. D. C. No. 34662. Sample No. 64071-L.)**

**LIBEL FILED:** February 16, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 29, 1952, by Whitney & Co., from Seattle, Wash.

**PRODUCT:** 81 cases, each containing 48 cans, of tuna flakes at Freeport, Long Island, N. Y.

**LABEL, IN PART:** (Can) "Contents 6 Oz. His Highness Brand Chunk Style White Meat Flaked Tuna."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the labeled 6 ounces.)

**DISPOSITION:** April 10, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court or-

dered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**20322. Adulteration of frozen breaded shrimp and frozen headless shrimp. U. S. v. Ho-Ma Packing Co. and John Domangue. Pleas of nolo contendere. Fine of \$500 against company and \$250 against individual. (F. D. C. No. 33832. Sample Nos. 42285-L, 42286-L.)**

**INFORMATION FILED:** November 20, 1952, Eastern District of Louisiana, against the Ho-Ma Packing Co., a partnership, Houma, La., and John Domangue, general foreman of the company.

**ALLEGED SHIPMENT:** On or about May 13 and 23, 1952, from the State of Louisiana into the State of California.

**LABEL, IN PART:** "Ho-Ma Brand Breaded Fantail Shrimp" and "Frozen Shrimp Ho-Ma Brand Small."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of a decomposed substance by reason of the presence of decomposed shrimp; and, Section 402 (a) (4), the frozen breaded shrimp had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 29, 1953. Pleas of nolo contendere having been entered by the defendants, the court fined the partnership \$500 and the individual \$250.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20323. Misbranding of canned pears. U. S. v. 236 Cases, etc. (F. D. C. No. 34931. Sample Nos. 45119-L, 45416-L.)**

**LIBEL FILED:** April 6, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about February 24 and March 11, 1953, by Michigan Fruit Cannery, Inc., from Benton Harbor, Mich.

**PRODUCT:** 461 cases, each containing 24 1-pound, 4-ounce cans, of pears at Somerville, Mass.

**LABEL, IN PART:** (Can) "Thank You Brand Halves Michigan Kieffer Pears \* \* \* In Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned pears, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as the regulations require, the name of the optional packing medium present in the article since the label of the article bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated in the regulations as "Extra Heavy Sirup."

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned pears since all pear units of the article, when tested in accordance with the method prescribed in the standard, were not pierced by a weight of not more than 300 grams, since the weight of some pear halves of the article was less than  $\frac{3}{5}$  ounce, and since the weight of the largest unit in the container of the article was more than twice the weight of the smallest unit; and the label of the article failed to bear a statement that the article fell below the standard.



**DISPOSITION:** June 29, 1953. Michigan Fruit Canners, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### MISCELLANEOUS FRUIT PRODUCT

**20324. Adulteration of lekvar. U. S. v. 67 Tins, etc. (F. D. C. No. 34457. Sample No. 37887-L.)**

**LIBEL FILED:** December 24, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about October 6, 1952, the Harter Packing Co. shipped a consignment of prunes from Yuba City, Calif., to New York, N. Y., where the juice was extracted and the residue sold to Adolph J. Mainzer, Inc., Long Island City, N. Y., which residue was used with other ingredients to make the lekvar.

**PRODUCT:** 67 40-pound tins and 8 300-pound drums of lekvar at Long Island City, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated when introduced into, while in, and while held for sale after shipment in, interstate commerce.

**DISPOSITION:** March 5, 1953. Default decree of condemnation and destruction.

### VEGETABLES\*

**20325. Misbranding of stuffed olives. U. S. v. Walter S. Mills, Jr. (Epicure Specialties). Plea of guilty. Fine, \$200. (F. D. C. No. 33827. Sample Nos. 26239-L, 26668-L, 26669-L, 41439-L.)**

**INFORMATION FILED:** November 12, 1952, Southern District of New York, against Walter S. Mills, Jr., trading as Epicure Specialties, New York, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of November 21, 1951, and June 12, 1952, from the State of New York into the State of Pennsylvania.

**LABEL, IN PART:** "Mar-Se Stilton [or "Roquefort" or "Cheddar"] Stuffed Cocktail Olives Drained Weight 3½ Ozs. Packed Exclusively For Penn Food Distributors, Inc. Philadelphia, Pa." and "Mar-Se Triple Stuffed Olives Cont. Drained Wt. 3½ Oz. Packed Exclusively for Penn Food Distributors, Inc. Philadelphia, Pa."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the labels of the article failed to bear an accurate statement of the quantity of the contents. The labels of the article bore statements representing the drained weight of the article to be 3½ ounces, which statements were inaccurate since the article contained less than the stated quantity.

**DISPOSITION:** July 17, 1953. The defendant having entered a plea of guilty, the court fined him \$200.

**20326. Misbranding of canned peas. U. S. v. 10 Cases \* \* \*. (F. D. C. No. 34924. Sample No. 73021-L.)**

**LIBEL FILED:** April 16, 1953, Eastern District of Pennsylvania.

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\*See also No. 20314.

**ALLEGED SHIPMENT:** On or about February 23, 1943, from Cambridge, Md., to Philadelphia, Pa., where the product subsequently was sold to Max Factor.

**PRODUCT:** 10 cases, each containing 24 1-pound cans, of peas at Philadelphia, Pa., in the possession of Max Factor.

**RESULTS OF INVESTIGATION:** The dealer removed the original labels from the article after its shipment in interstate commerce and applied the label described below. The firm named on the label had no connection with the article.

**LABEL, IN PART:** (Can) "Broadcast Brand Wisconsin Early June Peas Packed by Klindt-Geiger Canning Co. Cassville, Wis."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas because of high alcohol-insoluble solids, and the label failed to bear a statement that the article fell below the standard. The article was misbranded in the above respects while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 24, 1953. Default decree of condemnation and destruction.

**20327. Adulteration of frozen peas. U. S. v. 205 Cartons \* \* \*. (F. D. C. No. 34633. Sample No. 66889-L.)**

**LIBEL FILED:** January 27, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 12, 1952, from Oxnard, Calif.

**PRODUCT:** 205 cartons, each containing 12 2½-pound packages, of frozen peas at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed peas. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 9, 1953. Venturi, Inc., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, all of the product was found to be unfit and was destroyed.

**20328. Adulteration and misbranding of canned spinach. U. S. v. 3,004 Cases \* \* \*. (F. D. C. No. 34252. Sample No. 54456-L.)**

**LIBEL FILED:** December 1, 1952, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about June 18 and 21, 1952, by the Larsen Co., from Kent City, Mich.

**PRODUCT:** 3,004 cases, each containing 24 13-ounce cans, of spinach at Green Bay, Wis.

**LABEL, IN PART:** (Can) "Vacuum Packed Freshlike Brand Cut Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), pieces of wood had been substituted in whole or in part for spinach.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned spinach since the vegetable ingredient was not obtained by proper preparation from the succulent vegetable in that it had not been cleaned to remove pieces of wood.



**DISPOSITION:** April 7, 1953. The shipper, claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for the segregation and the destruction of the unfit portion and the reprocessing of the fit portion into strained or pureed spinach under the supervision of the Food and Drug Administration.

Pursuant to the decree, each can was opened and the contents removed and examined, resulting in the destruction of 3,454 pounds of spinach because of the presence of wood particles. The remainder of the product was reprocessed for use as strained spinach, and, as a result of the reprocessing operations, an additional 5,237 pounds of the product were discarded and destroyed. A total of 37,977 No. 2 cans of reprocessed strained spinach was released to the claimant as satisfactory.

### **TOMATOES AND TOMATO PRODUCTS**

**20329. Adulteration of canned tomatoes. U. S. v. 525 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34460, 34652. Sample Nos. 3270-L, 39009-L.)**

**LIBELS FILED:** January 12 and February 9, 1953, Southern District of Florida and the District of Columbia.

**ALLEGED SHIPMENT:** On or about December 4, 1952, and January 2, 1953, by the W. H. Killian Co., from Baltimore, Md.

**PRODUCT:** 623 cases, each containing 24 cans, of tomatoes at Jacksonville, Fla., and Washington, D. C.

**LABEL, IN PART:** (Cans) "Sultana Vine Ripened Tomatoes \* \* \* Net Wt. 1 Lb. 3 Oz." and "Contents 1 Lb. 12 Ozs. \* \* \* Killian's Quality Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** The W. H. Killian Co. appeared as claimant in each of the above-mentioned libel actions and filed answers denying that the product was adulterated. Thereafter, the libel action which had been instituted in the Southern District of Florida was removed to, and consolidated with the libel action in, the District of Columbia, pursuant to a court order entered on March 30, 1953. On June 5, 1953, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20330. Adulteration and misbranding of canned tomatoes. U. S. v. 575 Cases \* \* \*. (F. D. C. No. 33393. Sample No. 41755-L.)**

**LIBEL FILED:** September 29, 1952, District of Delaware.

**ALLEGED SHIPMENT:** On or about August 22, 1952, from Syracuse, N. Y. This was a return shipment.

**PRODUCT:** 575 cases, each containing 24 1-pound cans, of tomatoes at Prime Hook, Del.

**LABEL, IN PART:** (Can) "Pine Cone Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below the standard.

DISPOSITION: July 2, 1953. Carlton Clifton & Sons, Prime Hook, Del., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the good portion from the bad and for the relabeling of the good portion, under the supervision of the Department of Health, Education, and Welfare. 13 cases of the product were found unfit and were destroyed and the remainder relabeled.

**20331. Misbranding of canned tomatoes. U. S. v. 1,047 Cases \* \* \*. (F. D. C. No. 34673. Sample No. 46884-L.)**

LIBEL FILED: February 18, 1953, Northern District of Alabama.

ALLEGED SHIPMENT: On or about January 21, 1953, by Homestead Canning Co., Inc., from Homestead, Fla.

PRODUCT: 1,047 cases, each containing 24 cans, of tomatoes at Birmingham, Ala.

LABEL, IN PART: (Can) "Homestead Brand Contents 1 Lb. Select Quality Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel, and the label failed to bear a statement that the product fell below the standard; and, Section 403 (e) (2), a portion of the product failed to bear a label containing an accurate statement of the quantity of the contents. (This portion of the product was short weight.)

DISPOSITION: March 18, 1953. The shipper having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

**20332. Adulteration of tomato juice. U. S. v. 948 Cases \* \* \*. (F. D. C. No. 34298. Sample No. 56536-L.)**

LIBEL FILED: December 13, 1952, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about September 20 and 30, 1952, by Charles R. Ubelhart & Co., from Louisville, Ky.

PRODUCT: 948 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Newport, Tenn.

LABEL, IN PART: (Can) "Brunson Selected Indiana Tomato Juice Packed in U. S. A. By Brunson Canning Co. Alexandria, Ind."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: August 28, 1953. Default decree of condemnation and destruction.

**20333. Adulteration of tomato juice. U. S. v. 374 Cases \* \* \*. (F. D. C. No. 34273. Sample No. 4606-L.)**

LIBEL FILED: On or about December 9, 1952, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about September 5, 1952, by Charles R. Ubelhart & Co., from Louisville, Ky

PRODUCT: 374 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Huntington, W. Va.

LABEL, IN PART: (Can) "Teen Queen Brand \* \* \* Tomato Juice."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 7, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20334. Adulteration of tomato juice. U. S. v. 489 Cases \* \* \*. (F. D. C. No. 34247. Sample No. 56529-L.)**

**LIBEL FILED:** November 24, 1952, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about September 25, 1952, by the Brunson Canning Co., from Alexandria, Ind.

**PRODUCT:** 489 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Burkesville, Ky.

**LABEL, IN PART:** (Can) "Brunson Selected Indiana Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 12, 1953. The Brunson Canning Co., claimant, having failed to file an answer to the libel, judgment of condemnation was entered and the court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20335. Adulteration of tomato juice. U. S. v. 188 Cases \* \* \*. (F. D. C. No. 33930. Sample No. 33450-L.)**

**LIBEL FILED:** October 16, 1952, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 6, 1952, by the Brunson Canning Co., from Alexandria, Ind.

**PRODUCT:** 188 cases, each containing 12 cans, of tomato juice at Chicago, Ill.

**LABEL, IN PART:** (Can) "Contents 1 Qt. 14 Fl. Oz. Club House Brand Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** The Brunson Canning Co. appeared as claimant and filed an answer denying that the product was adulterated as alleged in the libel. Interrogatories were filed by the Government and served upon the claimant, but the claimant failed to make answer to the interrogatories. Accordingly, on July 7, 1953, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20336. Adulteration of tomato juice. U. S. v. 139 Cases, etc. (F. D. C. No. 34165. Sample No. 66835-L.)**

**LIBEL FILED:** November 24, 1952, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 30, 1952, by the Francis C. Stokes Co., from Vincentown, N. J.

**PRODUCT:** 139 cases, each containing 12 46-ounce cans, and 199 cases, each containing 24 18-ounce cans, of tomato juice at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Relco Brand Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** July 22, 1953. The Francis C. Stokes Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 129 cases containing the 18-ounce cans of the product were found unfit and were destroyed.

**20337. Adulteration of tomato paste. U. S. v. 9,996 Cases \* \* \*. (F. D. C. No. 34910. Sample Nos. 18511-L, 18513-L.)**

**LIBEL FILED:** March 23, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 16, 1953, by Hunt Foods, Inc., from Fullerton, Calif.

**PRODUCT:** 9,996 cases, each containing 96 6-ounce cans, of tomato paste at Newark, N. J.

**LABEL, IN PART:** (Can) "Hunt's Tomato Paste."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 20, 1953. Hunt Foods, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. 212 cans of the product were found unfit and were destroyed.

**20338. Adulteration and misbranding of tomato puree. U. S. v. 12 Cases \* \* \*. (F. D. C. No. 34924. Sample No. 73022-L.)**

**LIBEL FILED:** April 16, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** During or about September 1952, from the Hadad Canning Co., Aldine, N. J.

**PRODUCT:** 12 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at Philadelphia, Pa., in the possession of Max Factor.

**RESULTS OF INVESTIGATION:** The dealer removed the original labels from the article after its shipment in interstate commerce and applied the label described below. The firm named on the label had no connection with the article.

**LABEL, IN PART:** (Can) "Tomato Puree Dacotah \* \* \* Andrew Kuehn Company Distributors Sioux Falls - South Dakota."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material, and of a filthy substance by reason of the presence of fly eggs and maggots. The article was adulterated when introduced into and while in interstate commerce.

Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor. The article was misbranded while held for sale after shipment in interstate commerce.



DISPOSITION: June 24, 1953. Default decree of condemnation and destruction.

## NUTS AND NUT PRODUCTS

**20339. Action for declaratory judgment and injunction. Stevens Industries, Inc. v. John P. Cowart, J. J. McManus, and Oscar Ross Ewing. Complaint dismissed.**

COMPLAINT FILED: October 17, 1947, Middle District of Georgia, by Stevens Industries, Inc., plaintiff, against John P. Cowart, United States Attorney for the Middle District of Georgia, J. J. McManus, Chief of the Atlanta District of the Food and Drug Administration, and Oscar Ross Ewing, Administrator for the Federal Security Agency.

NATURE OF CHARGE: The complaint alleged that the plaintiff was engaged in the business of selling and shipping raw shelled peanuts in interstate commerce; that the plaintiff had sold 2 cars of raw shelled peanuts on October 7, 1947, which were to be shipped in interstate commerce to the buyer, who would process the peanuts into peanut butter and confectionery items; and that it was the plaintiff's intention to utilize sacks of nonuniform size and weight in making delivery of the peanuts, that the sacks were for convenience only in shipping the peanuts, that they did not represent the unit of sale, and that they would not be labeled.

It was alleged further that the Food and Drug Administration had ruled on July 24, 1939, that all peanuts sold in bulk but delivered in sacks for the convenience of the shipper did not require labeling; that on June 6, 1947, a new interpretation was issued to the effect that shelled peanuts in sacks, whether or not shipped in carload lots, should bear the following information required by the law as to food in package form, namely, the name of the product, an accurate statement of the net weight, and the name and place of business of the buyer or distributor; and that a ruling was made under date of July 15, 1947, by the then Acting Federal Security Administrator, that there could be no exemptions from the labeling provisions of the Act where peanuts were sold for the purpose of being processed into peanut butter or confectionery items.

PRAYER OF COMPLAINT: That the interpretation of June 6, 1947, and the ruling of July 15, 1947, be declared void and contrary to law, and that pending such judgment, the defendants be restrained from instituting any action against the plaintiff or its products under the provisions of the Federal Food, Drug, and Cosmetic Act, or under the interpretation and ruling complained of.

DISPOSITION: The matter came on for hearing before the court, and at its conclusion, the court entered the following order on December 15, 1947:

DAVIS, *District Judge*: "This case came on for a hearing before me on a motion to dismiss filed by defendants John P. Cowart, United States Attorney for the Middle District of Georgia, J. J. McManus, Chief, Atlanta Station of the Food and Drug Administration, and Oscar Ross Ewing, Administrator for the Federal Security Agency. The questions raised on said motion have been argued by briefs submitted by counsel for both the plaintiff and the defendants. Counsel for the plaintiff concedes that the Court has no jurisdiction over the person of Oscar Ross Ewing, Administrator for the Federal Security Agency, as the defendant is a non-resident of this district. After careful consideration of the complaint and the issues raised by said motion, the Court, on authority of *Janes v. Lake Wales Citrus Growers Association*, 110 F. (2d), 653 (5 C. C. A.) and *Helco Products Company v. McNutt*, 137 F.

(2d), 681 (App. D. C.), is of opinion the complaint fails to state a claim upon which the relief prayed for can be granted and, therefore, should be dismissed.

"It is, therefore, CONSIDERED, ORDERED and ADJUDGED that the complaint be, and the same hereby is, dismissed without prejudice; and at the cost of the plaintiff."

**20340. Adulteration of unshelled almonds. U. S. v. 16 Cases \* \* \*. (F. D. C. No. 34480. Sample No. 64061-L.)**

**LIBEL FILED:** December 19, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 23, 1952, by the California Almond Growers Exchange, from Sacramento, Calif.

**PRODUCT:** 16 cases, each containing 24 1-pound bags, of unshelled almonds at Seattle, Wash.

**LABEL, IN PART:** (Bag) "Blue Diamond Brand \* \* \* California Softshell Almonds."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged almonds, and of a decomposed substance by reason of the presence of moldy almonds; and it was otherwise unfit for food by reason of the presence of gummy almonds.

**DISPOSITION:** July 15, 1953. Default decree of condemnation and destruction

**20341. Adulteration of peanut butter. U. S. v. 43 Cases, etc. (F. D. C. No. 34235. Sample Nos. 40626-L, 40627-L.)**

**LIBEL FILED:** On or about November 25, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 3 and 25, 1952, by the Pacific Fruit & Produce Co., from Oakland, Calif.

**PRODUCT:** 43 cases, each containing 24 14-ounce jars, and 48 cases, each containing 12 10-ounce jars, of peanut butter at Seattle, Wash.

**LABEL, IN PART:** (Jar) "Standby \* \* \* Homogenized Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 3, 1953. Default decree of condemnation and destruction.

**20342. Adulteration of peanut butter. U. S. v. 29 Cases \* \* \*. (F. D. C. No. 34622. Sample No. 39474-L.)**

**LIBEL FILED:** On or about January 21, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about October 13 and December 2, 1952, by Producers Peanut Co., Inc., from Suffolk, Va.

**PRODUCT:** 29 cases, each containing 24 1-pound jars, of peanut butter at Baltimore, Md.

**LABEL, IN PART:** (Jar) "The Rider Brand Homogenized Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 16, 1953. Producers Peanut Co., Inc., having appeared as claimant and later having withdrawn its claim, judgment of condemnation was entered and the court ordered that the product be destroyed.



**POULTRY**

**20343. Adulteration of dressed poultry. U. S. v. Benjamin I. Fisher (B & B Poultry Co.).** Plea of guilty. Fine of \$1,000 on count 1; imposition of sentence suspended on count 2 and defendant placed on probation for 3 years. (F. D. C. No. 34314. Sample Nos. 49521-L, 49526-L.)

**INFORMATION FILED:** March 3, 1953, District of New Jersey, against Benjamin I. Fisher, trading as the B & B Poultry Co., Norma, N. J.

**ALLEGED SHIPMENT:** Between the approximate dates of July 6 and October 6, 1952, from the State of New Jersey into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased poultry.

**DISPOSITION:** May 15, 1953. The defendant having entered a plea of guilty, the court imposed a fine of \$1,000 on count 1, suspended the imposition of sentence on count 2, and placed the defendant on probation for 3 years.

**20344. Adulteration of dressed poultry. U. S. v. New Hampshire Poultry Co., Inc., and Harry Glick.** Plea of guilty by corporation and plea of nolo contendere by individual. Fine of \$900 against corporation and \$300 against individual. (F. D. C. No. 34367. Sample Nos. 44230-L, 44733-L, 44734-L, 44991-L, 49508-L, 49534-L.)

**INFORMATION FILED:** April 22, 1953, District of New Hampshire, against New Hampshire Poultry Co., Inc., Goffstown, N. H., and Harry Glick, president of the corporation.

**ALLEGED SHIPMENT:** Between July 1 and November 3, 1952, from the State of New Hampshire into the States of Massachusetts and New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; Section 402 (a) (4), portions of the article had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth; and, Section 402 (a) (5), portions of the article were in part the product of a diseased animal, namely, diseased poultry.

**DISPOSITION:** June 5, 1953. The corporation having entered a plea of guilty and the individual having entered a plea of nolo contendere, the court fined the corporation \$900 and the individual \$300.

**20345. Adulteration of dressed poultry. U. S. v. 966 Pounds \* \* \*. (F. D. C. No. 34956. Sample No. 45312-L.)**

**LIBEL FILED:** April 15, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 1, 1953, by the Maplewood Packing Co., from Belfast, Maine.

**PRODUCT:** 966 pounds of dressed poultry in 15 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 8, 1953. Default decree of condemnation and destruction.

**20346. Adulteration of dressed poultry. U. S. v. 493 Pounds \* \* \*. (F. D. C. No. 34949. Sample No. 45314-L.)**

**LIBEL FILED:** April 13, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 1, 1953, by Vermont Poultry Outlet, Inc., from South Royalton, Vt.

PRODUCT: 493 pounds of dressed iced poultry in 8 crates at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: June 8, 1953. Default decree of condemnation. The court ordered that the product be delivered to the Food and Drug Administration.

**20347. Adulteration of frozen dressed chickens. U. S. v. 2 Barrels \* \* \*.**  
(F. D. C. No. 34532. Sample No. 42198-L.)

LIBEL FILED: January 9, 1953, Northern District of California.

ALLEGED SHIPMENT: On or about December 20, 1952, by the Draper Egg Producers Association, from Draper, Utah.

PRODUCT: 2 barrels, each containing 230 pounds, of frozen dressed chickens at Sacramento, Calif.

LABEL, IN PART: "Frozen N. Y. Dress Chickens: Egg Basket Diamond Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: March 18, 1953. Default decree of condemnation and destruction. The product was used for hog feed.

## SPICES, FLAVORS, AND SEASONING MATERIALS\*

**20348. Adulteration and misbranding of cinnamon, salad dressing, french dressing, and vinegar, and misbranding of coffee. U. S. v. Robert E. Henderson, Sr. (Henderson Coffee Co.). Plea of nolo contendere. Fine, \$320.**  
(F. D. C. No. 32797. Sample Nos. 32474-L to 32476-L, incl., 32478-L to 32480-L, incl., 32537-L, 32539-L, 32542-L.)

INFORMATION FILED: January 14, 1953, Eastern District of Oklahoma, against Robert E. Henderson, Sr., a partner in the partnership of the Henderson Coffee Co., Muskogee, Okla.

ALLEGED SHIPMENT: On or about October 14, 1950, and May 18 and 25, September 14 and 28, and October 26, 1951, from the State of Oklahoma into the State of Arkansas.

LABEL, IN PART: "It's Henderson Coffee," "It's Henderson Coffee Spices Extracts Teas Cinnamon," and "It's Henderson's Best \* \* \* Salad Dressing [or "French Dressing" or "Blended Distilled & Sugar Vinegar"]."

NATURE OF CHARGE: Coffee. Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (a portion of the article bore no label containing a statement of the contents; and the remainder of the article bore a label containing a statement "10 Lbs." which statement was inaccurate since the bags containing the article contained less than 10 pounds).

Cinnamon. Adulteration, Section 402 (b) (2), sugar had been substituted in part for cinnamon. Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the bags containing the article bore no statement of the quantity of the contents).

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\*See also No. 20314.



**Salad dressing.** Adulteration, Section 402 (b) (1), a valuable constituent of the article, vegetable oil, had been in part omitted; and, Section 402 (b) (2), a product containing, among other things, sodium benzoate and less than 30 percent by weight of vegetable oil, had been substituted for salad dressing. Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for salad dressing since it contained less than 30 percent by weight of vegetable oil, the minimum permitted by the definition and standard, and the article contained also a chemical preservative, sodium benzoate, which is not permitted as an optional ingredient of salad dressing in the definition and standard.

**French dressing.** Adulteration, Section 402 (b) (1), a valuable constituent of the article, namely, vegetable oil, had been in part omitted; and, Section 402 (b) (2), a product containing, among other things, starch, sodium benzoate, and less than 35 percent by weight of vegetable oil had been substituted for french dressing. Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil, the minimum permitted by the definition and standard, and the article contained also starch and a chemical preservative, namely, sodium benzoate, which are not permitted as optional ingredients of french dressing in the definition and standard.

**Vinegar.** Adulteration, Section 402 (b) (2), water had been substituted in part for vinegar. Misbranding, Section 403 (a), the label statement "Vinegar Reduced with water to 40 grain" was false and misleading since it represented and suggested that the article was of 40 grain strength, whereas the article was of a strength less than 40 grains; and, Section 403 (k), the article contained a chemical preservative, sodium benzoate, and it failed to bear labeling stating that fact.

**DISPOSITION:** January 22, 1953. The defendant having entered a plea of nolo contendere, the court fined him \$320.

**20349. Adulteration of chili peppers and cinnamon. U. S. v. 300 Cases, etc.** (F. D. C. No. 34729. Sample Nos. 46705-L, 46706-L.)

**LIBEL FILED:** February 27, 1953, Western District of Texas.

**ALLEGED SHIPMENT:** The chili peppers were shipped on or about November 25, 1952, from Los Angeles, Calif., and the cinnamon was shipped during the six months preceding the filing of the libel, from foreign countries.

**PRODUCT:** 300 25-pound cases of chili peppers and 2,000 pounds of cinnamon at San Antonio, Tex., in the possession of the Aviation Coffee Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence in the chili peppers of rodent-gnawed chili pods, rodent excreta, and rodent hairs, and by reason of the presence in the cinnamon of rodent excreta and insects; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 21, 1953. Default decree of condemnation and destruction.

**20350. Adulteration of hulled sesame seed. U. S. v. 9 Bags \* \* \*. (F. D. C. No. 34556. Sample No. 20283-L.)**

**LIBEL FILED:** January 20, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about September 14, 1951, from Elmhurst, N. Y.

PRODUCT: 9 101-pound bags of hulled sesame seed at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 27, 1953. A default decree was entered ordering that the product be denatured for use as animal feed or be destroyed.

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<sup>1</sup> (20314) Injunction issued.

<sup>2</sup> (20313) Prosecution contested.

<sup>3</sup> (20339) Contains order of the court. Action for declaratory judgment and injunction dismissed.



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Fisher, B. I.:		lekvar-----	20324
dressed poultry-----	20343	Maplewood Packing Co.:	
Flambeau Milling Co.:		dressed poultry-----	20345
pulverized white oats-----	<sup>2</sup> 20313	Michigan Fruit Cannery, Inc.:	
Fleming Co., Inc.:		canned pears-----	20323
sorghum sirup-----	20308	Mills, W. S., Jr.:	
Gallup Mercantile Co.:		stuffed olives-----	20325
flour -----	20312	Morris, D. L.:	
Glick, Harry:		cornmeal-----	20311
dressed poultry-----	20344		

<sup>1</sup> (20314) Injunction issued.<sup>2</sup> (20313) Prosecution contested.<sup>3</sup> (20339) Contains order of the court. Action for declaratory judgment and injunction dismissed.

	N. J. No.		N. J. No.
Morris, D. L., Milling Co., Inc.:		Sloan, Ray:	
cornmeal_____	20311	sorghum sirup_____	20308
New Hampshire Poultry Co., Inc.:		Spring Hill Creamery Co.:	
dressed poultry_____	20344	butter_____	20317
North American Sweets Corp.:		Stevens Industries, Inc.:	
coffee_____	20302	raw shelled peanuts_____ <sup>3</sup>	20339
Occident Elevator:		Stiles, R. L., Co.:	
wheat_____	20315	candied popcorn_____	20307
Pacific Fruit & Produce Co.:		Stokes, Francis C., Co.:	
peanut butter_____	20341	tomato juice_____	20336
Penn Food Distributors, Inc.:		Ubelhart, Charles R., & Co.:	
stuffed olives_____	20325	tomato juice_____	20332, 20333
Producers Peanut Co., Inc.:		Vermont Poultry Outlet, Inc.:	
peanut butter_____	20342	dressed poultry_____	20346
Rabenowich, Frank:		Walla Walla Baking Co.:	
pulverized white oats_____ <sup>2</sup>	20313	enriched bread_____	20310
Reedsport Creamery:		Whitney & Co.:	
butter_____	20318	canned tuna flakes_____	20321
Schmid, Joe:		Windsor Toffee Co.:	
muenster cheese_____	20319	candy_____	20306
Schucart, Jacob:			
root beer_____	20301		

<sup>2</sup> (20313) Prosecution contested.

<sup>3</sup> (20339) Contains order of the court. Action for declaratory judgment and injunction dismissed.



732 Nf

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20351-20400

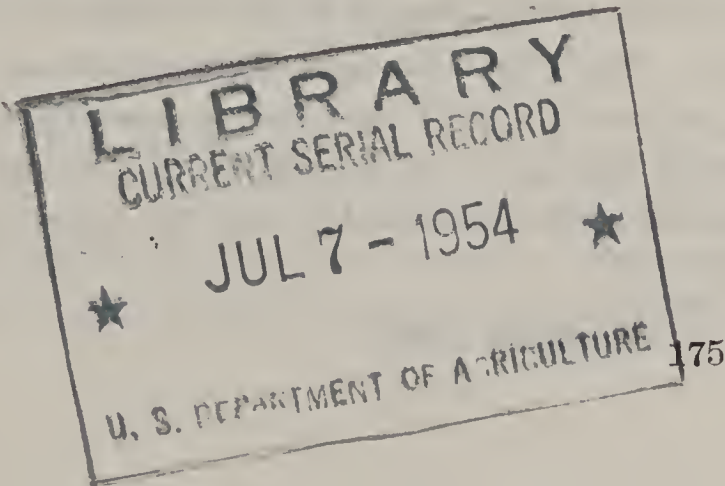
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *June 11, 1954.*

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**BEVERAGES AND BEVERAGE MATERIALS \***

**20351. Adulteration of sparkling water. U. S. v. American Soda Water Co. and Chester H. Schafer. Pleas of nolo contendere. Fine of \$750 against company and \$250 against individual. (F. D. C. No. 34357. Sample No. 53752-L.)**

**INFORMATION FILED:** March 2, 1953, Eastern District of Missouri, against the American Soda Water Co., a corporation, St. Louis, Mo., and Chester H. Schafer, secretary of the corporation.

**ALLEGED SHIPMENT:** On or about September 11, 1952, from the State of Missouri into the State of Illinois.

**LABEL, IN PART:** "Silver Seal Soda Sparkling Water."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy and decomposed substance by reason of the presence of insect fragments and mold; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 3, 1953. Pleas of nolo contendere having been entered, the court fined the corporation \$750 and the individual \$250.

**20352. Adulteration of green coffee. U. S. v. 83 Bags \* \* \*. (F. D. C. No. 34696. Sample No. 23316-L.)**

**LIBEL FILED:** March 5, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 6, 1952, by Orozco and Espinosa, Ltd., from Bogota, Colombia.

**PRODUCT:** 83 bags, each containing 154 pounds, of green coffee at Brooklyn, N. Y.

**LABEL, IN PART:** "Oroes \* \* \* Bogota Excelso Product of Colombia."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), blue-dyed corn had been substituted in whole or in part for coffee, which the product was represented to be.

**DISPOSITION:** April 27, 1953. Leonidas Lara & Sons, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was reconditioned by hand picking the blue-dyed corn from the coffee. As a result, 1,771 pounds of the corn was removed from the product and was destroyed.

**20353. Adulteration of green coffee. U. S. v. 12 Bags \* \* \*. (F. D. C. No. 34903. Sample No. 37303-L.)**

**LIBEL FILED:** March 20, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 8, 1952, from Bogota, Colombia.

**PRODUCT:** 12 150-pound bags of green coffee at Brooklyn, N. Y.

**LABEL, IN PART:** (Bag) "Bogota Excelso Product of Colombia 70 Klos Netos."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance, blue-dyed corn, had been substituted in part for coffee, which the article was represented to be.

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\*See also Nos. 20387-20390.



**DISPOSITION:** May 22, 1953. East Asiatic Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. The reconditioning operations consisted in the examination of the product, and in the removal of the corn. A total of approximately 120 pounds of corn was removed and was denatured.

**20354. Misbranding of coffee. U. S. v. 19 Cases, etc.** (F. D. C. No. 32998. Sample Nos. 4434-L, 4435-L.)

**LIBEL FILED:** On or about March 31, 1952, District of Maryland.

**ALLEGED SHIPMENT:** On or about March 10, 1952, by the Greenwich Mills Co., from New York, N. Y.

**PRODUCT:** 19 cases, each containing 24 cans, and 40 cases, each containing 6 cans, of coffee at Baltimore, Md.

**LABEL, IN PART:** (Can) "Marlboro Coffee One Pound Net Weight" and "3 Pounds Net Weight Vacuum Packed Coffee."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statements "One Pound Net Weight" and "3 Pounds Net Weight" were inaccurate. (Examination showed that the article was short weight.)

**DISPOSITION:** July 24, 1953. The Greenwich Mills Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20355. Adulteration of coffee sweeps. U. S. v. 300 Bags \* \* \*.** (F. D. C. No. 33504. Sample No. 37843-L.)

**LIBEL FILED:** July 31, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about March 8, 1952, from Guatemala.

**PRODUCT:** 300 152-pound bags of coffee sweeps at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of manure, dirt, and miscellaneous debris. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 5, 1953. J. Aron & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 277 pounds of the product were found unfit and were destroyed.

## CANDY AND SIRUP

### CANDY

**20356. Adulteration of candy. U. S. v. 32 Boxes \* \* \*.** (F. D. C. No. 34572. Sample No. 16534-L.)

**LIBEL FILED:** On or about February 2, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about April 16 and September 26, 1952, from Centralia, Ill.

PRODUCT: 32 boxes of candy, each box containing 24  $1\frac{1}{16}$ -ounce candy bars, at Kansas City, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 3, 1953. Default decree of condemnation and destruction.

**20357. Adulteration of candy. U. S. v. 4 Boxes, etc.** (F. D. C. Nos. 34598, 34599. Sample Nos. 38904-L to 38906-L, incl.)

LABEL FILED: On or about January 19, 1953, Western District of Virginia.

ALLEGED SHIPMENT: On or about November 17, 1952, by the Anderson Candy Co., from Wilmington, N. C.

PRODUCT: 12 boxes of candy, each box containing 25 candy bars, at Roanoke, Va.

LABEL, IN PART: (Box) "Peco [or "Cocoanut"] Flake."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 6, 1953. Default decree of condemnation and destruction.

**20358. Misbranding of candy. U. S. v. 19 Boxes \* \* \*.** (F. D. C. No. 34663. Sample No. 57310-L.)

LABEL FILED: On or about February 11, 1953, District of Maryland.

ALLEGED SHIPMENT: On or about December 16, 1952, by Hilo Packing Co., Inc., from New York, N. Y.

PRODUCT: 19 boxes, each containing 60  $\frac{3}{8}$ -ounce packages, of candy at Baltimore, Md.

LABEL, IN PART: (Package) "Joe Palooka Candy \* \* \* Joe Palooka Candy & Toy Comics Novelty Candy Corp. New York, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: March 17, 1953. Default decree of condemnation and destruction.

## SIRUP

**20359. Adulteration of malt sirup. U. S. v. 170 Cans \* \* \*.** (F. D. C. No. 34712. Sample No. 4629-L.)

LABEL FILED: On or about March 2, 1953. Southern District of West Virginia.

ALLEGED SHIPMENT: On or about July 11 and August 29, 1952, from Cincinnati, Ohio.

PRODUCT: 170 3-pound cans of malt sirup at Huntington, W. Va.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 7, 1953. Default decree of condemnation and destruction.



**20360. Adulteration and misbranding of sorghum sirup. U. S. v. 14 Cases \* \* \*.**  
(F. D. C. No. 34769. Sample No. 61077-L.)

**LIBEL FILED:** March 23, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about August 29, 1952, by Ray Sloan, from Van Buren, Ark.

**PRODUCT:** 14 cases, each containing 12 4½-pound cans, of sorghum sirup at Wichita, Kans.

**LABEL, IN PART:** (Can) "New Crop Sorghum Packed For Ray Sloan Van Buren, Ark."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of glucose and sorghum.

**DISPOSITION:** April 30, 1953. Default decree of condemnation and destruction. On June 9, 1953, the decree was amended to provide for the delivery of the product to a charitable institution.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCT

**20361. Adulteration and misbranding of enriched bread. U. S. v. Tri-City Grocery Co. Plea of nolo contendere. Fine of \$500, plus costs. (F. D. C. No. 34857. Sample Nos. 62012-L to 62014-L, incl., 62160-L.)**

**INFORMATION FILED:** April 21, 1953, Southern District of Illinois, against the Tri-City Grocery Co., a corporation, Granite City, Ill.

**ALLEGED SHIPMENT:** On or about November 14 and 19, 1952, from the State of Illinois into the State of Missouri.

**LABEL, IN PART:** "Fred P. Rapp's Enriched Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth. Further adulteration, Section 402 (b) (1), valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted from a portion of the article.

Misbranding, Section 403 (a), the label statements "One-half pound of this bread supplies you with at least the following amounts or percentages of your minimum daily requirements for these essential food substances: thiamine (Vitamin B<sub>1</sub>) 55%; riboflavin (Vitamin B<sub>2</sub>) 17.5%; niacin (another 'B' Vitamin) 5 mgs.; iron 40%" were false and misleading with respect to a portion of the article since each one-half pound of the bread contained less than 55 percent of the minimum daily requirements of the body for thiamine (Vitamin B<sub>1</sub>), less than 17.5 percent of the minimum daily requirements of the body for riboflavin (Vitamin B<sub>2</sub>), and less than 40 percent of the minimum daily requirements of the body for iron, and each one-half pound of the article contained less than 5 milligrams of niacin.

**DISPOSITION:** May 12, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$500, plus costs.

## FLOUR

20362. Adulteration of flour. U. S. v. 227 Bags \* \* \*. (F. D. C. No. 34805. Sample No. 62282-L.)

LIBEL FILED: April 3, 1953, Western District of Tennessee.

ALLEGED SHIPMENT: On or about October 31, 1952, from Abilene, Kans., to Paris, Tenn., and subsequently transported to Lexington, Tenn.

PRODUCT: 227 25-pound bags of flour at Lexington, Tenn., in the possession of United Grocery Co., Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

## MISCELLANEOUS CEREALS

20363. Adulteration of rice. U. S. v. 77 Bags \* \* \*. (F. D. C. No. 34918. Sample No. 57832-L.)

LIBEL FILED: On or about March 26, 1953, District of Maryland.

ALLEGED SHIPMENT: On or about November 6, 1952, from Houston, Tex.

PRODUCT: 77 100-pound bags of rice at Baltimore, Md., in the possession of the Terminal Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 14, 1953. The Terminal Warehouse Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the denaturing of the unfit portion for use as animal feed, under the supervision of the Department of Health, Education, and Welfare. 42 bags containing a total of 4,100 pounds of the product were found unfit and were denatured for use as animal feed.

20364. Adulteration of rice. U. S. v. 9 Bags \* \* \*. (F. D. C. No. 34735. Sample No. 34564-L.)

LIBEL FILED: March 3, 1953, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about October 29, 1952, from Stuttgart, Ark.

PRODUCT: 9 100-pound bags of rice at Champaign, Ill., in the possession of the Eisner Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** May 19, 1953. Default decree of condemnation. The court ordered that the product be sold for purposes other than for human consumption. The product was sold for use as hog feed.

**20365. Adulteration of wheat. U. S. v. 120,000 Pounds \* \* \*. (F. D. C. No. 34766. Sample No. 20547-L.)**

**LIBEL FILED:** March 20, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 10, 1953, by the Farmers Mercantile & Elevator Co., from Garden City, S. Dak.

**PRODUCT:** 120,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** March 27, 1953. The Farmers Mercantile & Elevator Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing into animal feed, under the supervision of the Federal Security Agency.

**20366. Adulteration of wheat. U. S. v. 1,700 Bushels \* \* \*. (F. D. C. No. 34743. Sample No. 20620-L.)**

**LIBEL FIELD:** March 11, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 1, 1953, by the Farmers Union Grain Terminal Association, from Spring Brook, N. Dak.

**PRODUCT:** 1,700 bushels of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** April 3, 1953. The Farmers Union Grain Terminal Association, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by scouring, so as to be brought into compliance with the law. As a result of the scouring operations, 2,240 pounds were found unfit and were destroyed.

**20367. Adulteration of wheat. U. S. v. 110,000 Pounds \* \* \*. (F. D. C. No. 34534. Sample No. 20215-L.)**

**LIBEL FILED:** January 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 24, 1952, by the Ferney Farmers Elevator Co., from Groton, S. Dak.

**PRODUCT:** 110,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** May 11, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment

of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by cleaning and scouring, under the supervision of the Food and Drug Administration. 105,820 pounds were salvaged and released to the claimant, and 5,300 pounds were found to be unfit. (111,120 pounds of the product actually were seized.)

**20368. Adulteration of wheat. U. S. v. 108,000 Pounds \* \* \*. (F. D. C. No. 34758. Sample No. 66504-L.)**

**LIBEL FILED:** March 17, 1953, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about March 9, 1953, by the Burk Elevator Co., from Decatur, Ind.

**PRODUCT:** 108,000 pounds of wheat at Hillsdale, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** April 15, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into chickenfeed, under the supervision of the Food and Drug Administration.

**20369. Adulteration of wheat. U. S. v. 92,400 Pounds \* \* \*. (F. D. C. No. 34585. Sample Nos. 20264-L, 64831-L.)**

**LIBEL FILED:** February 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 23, 1953, by the Farmers Union Grain Terminal Association, from Wishek, N. Dak.

**PRODUCT:** 92,400 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** May 11, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. 2,730 pounds were found unfit and were segregated for sale as animal feed.

**20370. Adulteration of wheat. U. S. v. 88,800 Pounds \* \* \*. (F. D. C. No. 34772. Sample No. 20549-L.)**

**LIBEL FILED:** March 24, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 11, 1953, by the Gwinner Farmers Elevator Co., from Gwinner, N. Dak.

**PRODUCT:** 88,800 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** March 25, 1953. The Gwinner Farmers Elevator Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed or as seed.



**20371. Adulteration of wheat. U. S. v. 87,900 Pounds \* \* \*. (F. D. C. No. 34775. Sample No. 61199-L.)**

**LIBEL FILED:** March 23, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about March 18, 1953, by the Farmers Coop. Grain Association, from Waterville, Kans.

**PRODUCT:** 87,900 pounds of wheat at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** March 30, 1953. The Farmers Coop. Grain Association, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was denatured for use as animal feed.

## DAIRY PRODUCTS

### BUTTER

**20372. Adulteration of butter. U. S. v. Marion Creamery Co. and George G. Wolf. Pleas of nolo contendere. Fine of \$50, plus costs, against each defendant. (F. D. C. No. 34823. Sample No. 33452-L.)**

**INFORMATION FILED:** May 5, 1953, District of Kansas, against the Marion Creamery Co., a partnership, Marion, Kans., and George G. Wolf, a partner in the partnership.

**ALLEGED VIOLATION:** On or about September 25, 1952, from the State of Kansas into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments and fly setae; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 18, 1953. Pleas of nolo contendere having been entered by the defendants, the court imposed a fine of \$50, plus costs, against each defendant.

**20373. Adulteration of butter. U. S. v. Paul H. Orness (Rolla Sanitary Dairy). Plea of guilty. Fine, \$100. (F. D. C. No. 34819. Sample Nos. 19656-L, 48794-L.)**

**INFORMATION FILED:** May 12, 1953, District of North Dakota, against Paul H. Orness, trading as the Rolla Sanitary Dairy, at Rolla, N. Dak.

**ALLEGED VIOLATION:** On or about October 31, 1950, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that butter delivered by the defendant under the guaranty would not be adulterated. On or about March 17 and November 12, 1952, the defendant caused to be shipped to the holder of the guaranty, at Fargo, N. Dak., a quantity of butter that was adulterated.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** May 20, 1953. The defendant having entered a plea of guilty, the court fined him \$100.

## EGGS

**20374. Adulteration of frozen eggs. U. S. v. 579 Cans \* \* \*. (F. D. C. No. 34726. Sample Nos. 55582-L, 55583-L.)**

**LIBEL FILED:** On or about March 3, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about December 2, 1952, and January 20, 1953, by the Tranin Egg Products Co., from Kansas City, Mo.

**PRODUCT:** 579 30-pound cans of frozen eggs at Binghamton, N. Y.

**LABEL, IN PART:** "Tranin's Frozen Egg Whites and Egg Yolks."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** March 18, 1953. The Tranin Egg Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. 126 cans of the product were found unfit and were denatured, and were disposed of for nonfood purposes.

## FISH AND SHELLFISH

**20375. Adulteration of frozen ocean catfish fillets. U. S. v. 2,448 Cases, etc. (F. D. C. No. 34678. Sample Nos. 44942-L to 44944-L, incl.)**

**LIBEL FILED:** On or about February 26, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about October 30 and November 4, 7, and 8, 1952, by Morris Fisheries, from Jersey City, N. J.

**PRODUCT:** 2,667 cases, each containinng 10 5-pound boxes, and 122 cases, each containing 8 5-pound boxes, of frozen ocean catfish fillets at Tiverton, R. I.

**LABEL, IN PART:** (Boxes) "An Eskimo Brand Product Quick Frozen Ocean Catfish Fillets \* \* \* Grimsby Frozen Products Ltd. Grimsby, England"; "Quick Frozen Arctic Breeze Skinless Ocean Catfish Fillets \* \* \* Processed & Packed by Arctic Breeze Fish Products Limited Grimsby, England"; and "S. C. S. Quick Frozen Fish Ocean Skinless Catfish Fillets \* \* \* Standard Cold Stores Grimsby, England."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** July 1, 1953. Default decree of condemnation and destruction. On July 8, 1953, the decree was amended to provide for destruction by converting and processing the product into fish oil or fertilizer.

**20376. Adulteration of frozen catfish fillets. U. S. v. 67 Cases \* \* \*. (F. D. C. No. 34685. Sample Nos. 66015-L, 66019-L.)**

**LIBEL FILED:** February 27, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 21, 1953, by Morris Fisheries, from New York, N. Y.

**PRODUCT:** 67 cases, each containing 8 5-pound boxes, of frozen catfish fillets at Chicago, Ill.

**LABEL, IN PART:** (Box) "S. C. S. Quick Frozen Fish Skinless Catfish Fillets \* \* \* Standard Cold Stores Grimsby, England."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** April 22, 1953. Default decree of condemnation and destruction.

**20377. Adulteration and misbranding of canned mackerel. U. S. v. 109 Cases**  
\* \* \*. (F. D. C. No. 34724. Sample No. 18659-L.)

**LIBEL FILED:** February 27, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about January 25, 1953, by the Van Camp Sea Food Co., from Terminal Island, Calif.

**PRODUCT:** 109 cases, each containing 48 15-ounce cans. of mackerel at Colonie, N. Y.

**LABEL, IN PART:** (Can) "Eatwell Brand California Mackerel Water and Salt Added \* \* \* Packed by French Sardine Co., Inc. Terminal Island, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the article.

**DISPOSITION:** April 4, 1953. The French Sardine Co. of California having admitted the truth of the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

**20378. Adulteration and misbranding of canned mackerel. U. S. v. 99 Cases**  
\* \* \*. (F. D. C. No. 34640. Sample No. 44918-L.)

**LIBEL FILED:** February 6, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about December 1, 1952, by Sun-Pacific, Inc., from San Francisco, Calif.

**PRODUCT:** 99 cases, each containing 48 15-ounce cans, of mackerel at Providence, R. I.

**LABEL, IN PART:** (Can) "Sultana Brand Mackerel."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2) horse mackerel (jack mackerel) had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was horse mackerel (jack mackerel); and, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the article.

**DISPOSITION:** May 21, 1953. Franco-Italian Packing Co., Inc., Terminal Island, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20379. Adulteration of frozen ocean perch fillets. U. S. v. 19 Boxes, etc.**  
(F. D. C. No. 34670. Sample No. 54903-L.)

**LIBEL FILED:** February 17, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 28, 1953, by Morris Fisheries, Inc., from Gloucester, Mass.

**PRODUCT:** 19 boxes, each containing 24 packages, and 1 box, containing 9 packages, of frozen ocean perch fillets at Chicago, Ill.

**LABEL, IN PART:** (Package) "Ho-Ma Brand Ocean Perch Fillets Net Weight One Pound."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** May 27, 1953. Default decree of condemnation and destruction.

**20380. Adulteration of frozen dressed sablefish. U. S. v. 39,781 Pounds \* \* \*.**  
(F. D. C. No. 34711. Sample No. 64067-L.)

**LIBEL FILED:** February 25, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about October 15, 1952, by the Aleutian Cold Storage, from Sand Point, Alaska.

**PRODUCT:** 39,781 pounds of frozen dressed sablefish at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** May 13, 1953. Oxenberg Bros., Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Department of Health, Education, and Welfare. 35,681 pounds of the product were salvaged and 4,000 pounds were destroyed.

**20381. Adulteration of frozen sole fillets. U. S. v. 147 Cases \* \* \*.** (F. D. C. No. 34707. Sample No. 42263-L.)

**LIBEL FILED:** February 20, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about January 20, 1953, by the Yaquina Bay Fish Co., from Portland, Oreg.

**PRODUCT:** 147 cases, each containing 6 5-pound packages, of frozen sole fillets at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** May 8, 1953. Default decree of condemnation and destruction.

**20382. Misbranding of canned shrimp appetizer. U. S. v. 278 Cases \* \* \*.**  
(F. D. C. No. 34702. Sample No. 64073-L.)

**LIBEL FILED:** February 16, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about October 17, 1952, by the Lifco Seafood Co., from Portland, Oreg.



**PRODUCT:** 278 cases, each containing 24 3-ounce cans, of shrimp appetizer at Seattle Wash. Examination showed that the article consisted of about 20 small dried shrimp in a catsup type sauce. The shrimp were hard, brown or black, and brittle.

**LABEL, IN PART:** (Can) "Lifco Brand Shrimp Appetizer."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Shrimp Appetizer" was false and misleading since it failed to reveal the material fact that the shrimp in the article were dried shrimp.

**DISPOSITION:** May 18, 1953. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### DRIED FRUIT

**20383. Adulteration of dates. U. S. v. 77 Cases \* \* \*. (F. D. C. No. 34746. Sample No. 43221-L.)**

**LIBEL FILED:** March 17, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about March 18, 1952, from New York, N. Y.

**PRODUCT:** 77 70-pound cases of dates at Oakland, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested dates, and of a decomposed substance by reason of the presence of moldy dates. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 7, 1953. Default decree of condemnation and destruction.

### VEGETABLES

**20384. Adulteration of frozen french style green beans. U. S. v. 650 Cases \* \* \*. (F. D. C. No. 34566. Sample No. 57018-L.)**

**LIBEL FILED:** January 26, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about September 8, 1952, by Winter Garden Co., Inc., from Knoxville, Tenn.

**PRODUCT:** 650 cases, each containing 24 10-ounce packages of frozen french style green beans at Cleveland, Ohio.

**LABEL, IN PART:** (Package) "Top Frost Frozen Fresh French Style Green Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water in the form of ice had been substituted in part for frozen green beans; and, Section 402 (b) (4), water in the form of ice had been added to the article and mixed and packed with it so as to increase its bulk or weight.

**DISPOSITION:** September 18, 1953. Winter Garden Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20385. Misbranding of canned corn. U. S. v. 22 Cases \* \* \*. (F. D. C. No. 34937. Sample No. 73055-L.)**

**LIBEL FILED:** April 16, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about January 11, 1952, from Matthewstown, Md.

**PRODUCT:** 22 cases, each containing 24 1-pound cans, of corn at Philadelphia, Pa.

**RESULTS OF INVESTIGATION:** The product was shipped unlabeled, and following its arrival at Philadelphia, Pa., the product was sold to Meyer Mittleman, trading as the Keystone Pickling Works, Philadelphia, Pa. Meyer Mittleman applied the label described below to the cans of the product and then resold it.

Examination showed that the product contained more than one discolored kernel or piece of kernel in each two ounces of drained weight and that the firm name and address on the label were not those of the distributor of the product.

**LABEL, IN PART:** (Can) "Contents 1 Lb. IF-SA Whole Kernel Golden Bantam Corn Distributed by IF-SA Sales & Service Corporation Columbus, Ohio."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned whole kernel corn since it contained more than one brown or black discolored kernel or piece of kernel for each two ounces of drained weight, and the label failed to bear a statement that the article fell below the standard. The article was misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 24, 1953. Default decree of condemnation and destruction.

### **TOMATOES AND TOMATO PRODUCTS**

**20386. Adulteration of canned tomatoes. U. S. v. 116 Cases, etc. (F. D. C. No. 34435. Sample Nos. 40305-L, 40306-L.)**

**LIBEL FILED:** December 15, 1952, District of Connecticut.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by the Harcourt, Green Corp., from San Francisco, Calif.

**PRODUCT:** 398 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Waterbury, Conn.

**LABEL, IN PART:** (Can) "Caraflo \* \* \* Tomatoes" or "'For All' Brand Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 31, 1953. Default decree of condemnation and destruction.

**20387. Adulteration of tomato juice. U. S. v. 230 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34717, 34721. Sample Nos. 19820-L, 20052-L, 20294-L.)**

**LIBELS FILED:** February 24 and 25, 1953, District of Minnesota and Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 1, 1952, by the Indiana Packing Co., from Royal Center, Ind.

**PRODUCT:** Tomato juice. 230 cases at Minneapolis, Minn., and 89 cases at Eau Claire, Wis. Each case contained 12 1-quart, 14-ounce cans.

**LABEL, IN PART:** (Can) "Standby Tomato Juice."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 31 and May 15, 1953. Default decrees of destruction.

**20388. Adulteration of tomato juice. U. S. v. 234 Cases \* \* \*. (F. D. C. No. 34722. Sample No. 20059-L.)**

**LIBEL FILED:** February 25, 1953, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about November 26, 1952, by Shuttleworth Foods, Inc., from Warren, Ind.

**PRODUCT:** 234 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Rhinelander, Wis.

**LABEL, IN PART:** (Can) "Family Size Valley Queen Pure Tomato Juice"

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 31, 1953. Default decree of forfeiture and destruction.

**20389. Adulteration of tomato juice. U. S. v. 155 Cases \* \* \*. (F. D. C. No. 34700. Sample No. 66820-L.)**

**LIBEL FILED:** February 10, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 29, 1951, and November 20, 1952, by the Winorr Canning Co., from Circleville, Ohio.

**PRODUCT:** 155 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Olyphant, Pa.

**LABEL, IN PART:** (Can) "Plee-zing \* \* \* Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 22, 1953. Default decree of condemnation and destruction.

**20390. Adulteration of tomato juice and tomato puree. U. S. v. 48 Cases \* \* \* (and 2 other seizure actions). (F. D. C. Nos. 34718 to 34720, incl. Sample Nos. 20257-L, 36680-L, 53189-L.)**

**LIBELS FILED:** On or about February 25 and March 18, 1953, Western District of Wisconsin, Southern District of Ohio, and Western District of Missouri.

**ALLEGED SHIPMENT:** Between the approximate dates of October 23 and December 5, 1952, by the Butterfield Canning Co., from Muncie, Ind.

**PRODUCT:** Tomato juice. 48 cases, each containing 24 cans, at La Crosse, Wis., and 127 cases, each containing 24 cans, at Joplin, Mo.

Tomato puree. 23 cases, each containing 6 cans, at Dayton, Ohio.

**LABEL, IN PART:** (Can) "IGA Net Contents 1 Pt. 2 Fl. Oz. Tomato Juice" and "Contents 6 Lbs. 9 Ozs. Butterfield Brand Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material.

**DISPOSITION:** March 31, April 9, and May 27, 1953. Default decrees of condemnation and destruction.

**20391. Adulteration of tomato sauce. U. S. v. 800 Cases \* \* \*. (F. D. C. No. 34974. Sample No. 57651-L.)**

**LIBEL FILED:** April 21, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about February 26, 1953, by Hunt Foods, Inc., from Oakland, Calif.

**PRODUCT:** 800 cases, each containing 72 8-ounce cans, of tomato sauce at Baltimore, Md.

**LABEL, IN PART:** (Can) "Hunt's Tomato Sauce."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** May 12, 1953. Hunt Foods, Inc., Fullerton, Calif., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare.. 4 7/9 cases were found unfit and were destroyed.

## NUTS AND NUT PRODUCTS

**20392. Adulteration of unshelled almonds. U. S. v. 20 Bags \* \* \*. (F. D. C. No. 34583. Sample No. 8550-L.)**

**LIBEL FILED:** February 7, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about October 20, 1952, from Sacramento, Calif.

**PRODUCT:** 20 25-pound bags of unshelled almonds at Syracuse, N. Y., in the possession of the Morey Hammond Warehouse.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent-gnawed nuts; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 23, 1953. Default decree of condemnation and destruction.

**20393. Adulteration of shelled peanuts. U. S. v. 19 Bags \* \* \*. (F. D. C. No. 34757. Sample No. 34863-L.)**

**LIBEL FILED:** March 1, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about December 6, 1952, from Albany, Ga.

**PRODUCT:** 19 bags, each containing 124 pounds, of shelled peanuts at Maplewood, Mo., in the possession of Halben Food Mfg. Co., Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 1, 1953. Halben Food Mfg. Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was cleaned, and the unfit portion, consisting of 75 pounds, was destroyed.



**20394. Adulteration of shelled pecans. U. S. v. Vernon-Pope Pecan Shellers and Donald M. Pope. Pleas of nolo contendere. Each defendant fined \$50; fine against individual suspended. (F. D. C. No. 34843. Sample Nos. 62118-L, 62134-L.)**

**INFORMATION FILED:** June 10, 1953, Eastern District of Oklahoma, against the Vernon-Pope Pecan Shellers, a partnership, Okmulgee, Okla., and Donald M. Pope, plant manager.

**ALLEGED SHIPMENT:** On or about August 5 and September 24, 1952, from the State of Oklahoma into the State of Arkansas.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** June 18, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$50, but suspended the fine against the individual.

**20395. Adulteration of shelled pecans. U. S. v. 28 Cartons \* \* \*. (F. D. C. No. 34725. Sample Nos. 14943-L, 14995-L.)**

**LABEL FILED:** February 27, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about August 4, 1952, by Shawnee Warehouse & Cold Storage Co., Inc., from Shawnee, Okla.

**PRODUCT:** 28 30-pound cartons of shelled pecans at Kansas City, Kans.

**LABEL, IN PART:** "Midget Pieces Harp's Oklahoma Brand Gas Packed Select Shelled Pecans \* \* \* Pecan Meats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** April 18, 1953. Shawnee Warehouse & Cold Storage Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was segregated, with the result that approximately 800 pounds of the product were released as satisfactory for human consumption.

**20396. Adulteration of unshelled pecans. U. S. v. 46 Bags \* \* \*. (F. D. C. No. 34771. Sample No. 19808-L.)**

**LABEL FILED:** March 20, 1953, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about December 19, 1951, and January 8, 1952, from Cairo, Ga.

**PRODUCT:** 46 50-pound bags of unshelled pecans at Marshfield, Wis., in the possession of the Hub City Jobbing Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed nuts and rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 16, 1953. The Hub City Jobbing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Food and Drug Administration. 14 pounds of the product were found unfit and were denatured.

**20397. Adulteration of peanut butter. U. S. v. 23 Cases \* \* \*. (F. D. C. No. 34623. Sample No. 44831-L.)**

**LIBEL FILED:** January 23, 1953, District of Connecticut.

**ALLEGED SHIPMENT:** On or about December 5, 1952, by Producers Peanut Co., Inc., from Suffolk, Va.

**PRODUCT:** 23 cases, each containing 24 12-ounce jars, of peanut butter at East Hartford, Conn.

**LABEL, IN PART:** (Jar) "The Peanut Kids Creamy Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 16, 1953. Default decree of condemnation and destruction. On April 28, 1953, the court amended the decree to permit the product to be denatured and delivered to an organization, for use as bird feed.

**20398. Adulteration of coconut coating. U. S. v. 9 Cartons \* \* \*. (F. D. C. No. 34732. Sample No. 8291-L.)**

**LIBEL FILED:** February 27, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 1, 1951, from Long Island City, N. Y.

**PRODUCT:** 9 50-pound cartons of coconut coating at Wilkinsburg, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 9, 1953. Default decree of condemnation. The court ordered that the product be delivered to a city institution, for use as animal feed.

## MISCELLANEOUS FOODS

**20399. Adulteration of meat preservative. U. S. v. 2 Drums \* \* \*. (F. D. C. No. 34648. Sample No. 39490-L.)**

**LIBEL FILED:** On or about February 3, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about January 13, 1953, by Morris Laboratory Co., Inc., from Guttenberg, N. J.

**PRODUCT:** 2 drums, each containing 204 pounds, of meat preservative at Baltimore, Md.

**LABEL, IN PART:** "Morris Erhaltungssalz Use: \* \* \* Prevents Discoloration due to Oxidation."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, thiourea, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient.

**DISPOSITION:** February 26, 1953. Default decree of condemnation and destruction.



**20400. Misbranding of Spudsaver. U. S. v. 127 Jars \* \* \*. (F. D. C. No. 34540. Sample No. 154-L.)**

**LIBEL FILED:** January 12, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about July 7, 1952, by the Pittsburgh Chemical Laboratory, from Chicago, Ill.

**PRODUCT:** 127 jars of Spudsaver at Wichita, Kans.

**LABEL, IN PART:** "Spudsaver \* \* \* Crystalline—Anti-Oxident \* \* \* Pittsburgh Chemical Laboratory 715 Penn Avenue Pittsburgh 22, Pa. Net contents one pound \* \* \* Active ingredients ascorbic acid citric acid sod. bi-carb."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "sod. bi-carb." was false and misleading since the product did not contain sodium bicarbonate; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient since sodium bisulfite was not listed. (Examination disclosed that the product consisted essentially of sodium bisulfate, with small quantities of ascorbic acid and citric acid, and that it contained no sodium bicarbonate.)

**DISPOSITION:** March 19, 1953. Default decree of condemnation and destruction.

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## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

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Halben Food Mfg. Co., Inc.:		Producers Peanut Co., Inc.:	
shelled peanuts	20393	peanut butter	20397
Hammond, Morey, Warehouse:		Rolla Sanitary Dairy. <i>See</i> Orness, P. H.	
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Hilo Packing Co., Inc.:		shelled pecans	20395
candy	20358	Shuttleworth Foods, Inc.:	
Hub City Jobbing Co.:		tomato juice	20388
unshelled pecans	20396	Sloan, Ray:	
Hunt Foods, Inc.:		sorghum sirup	20360
tomato sauce	20391		



	N. J. No.		N. J. No.
Sun-Pacific, Inc. :		Vernon-Pope Pecan Shellers :	
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Terminal Warehouse Co. :		Winorr Canning Co. :	
rice-----	20363	tomato juice-----	20389
Tranin Egg Products Co. :		Winter Garden Co., Inc. :	
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United Grocery Co., Inc. :		Yaquina Bay Fish Co. :	
flour-----	20362	frozen sole fillets-----	20381
Van Camp Sea Food Co. :			
canned mackerel-----	20377		

# THE FEDERAL REGISTER

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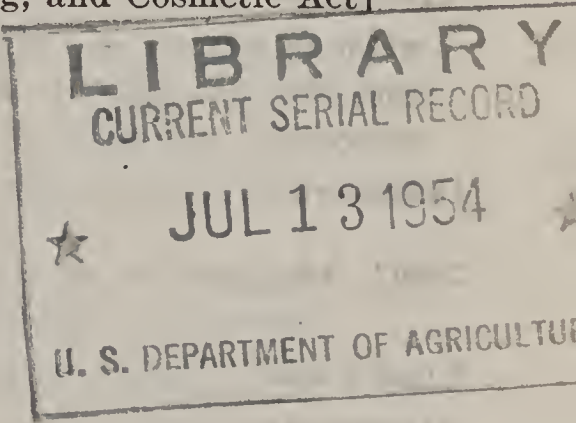
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20401-20450

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., *June 18, 1954.*

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**CANDY AND SIRUP****CANDY**

**20401. Adulteration of candy. U. S. v. 6 Cases, etc. (F. D. C. No. 34714. Sample Nos. 64158-L, 64159-L.)**

**LIBEL FILED:** March 3, 1953, District of Oregon.

**ALLEGED SHIPMENT:** On or about January 13, 1953, by the California Peanut Co., from Oakland, Calif.

**PRODUCT:** 6 30-pound cases of candy and 3 25-pound cases of candy at Portland, Oreg.

**LABEL, IN PART:** "Item No. M-2 Milk Choc D. Dipped Peanuts Pack 30 Lbs. Net" and "Item No. N-6 Milk Choc Raisins Pack 25 Lbs. Net."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 4, 1953. Default decree of condemnation and destruction.

**20402. Adulteration of candy. U. S. v. 12 Cases \* \* \*. (F. D. C. No. 34749. Sample No. 48663-L.)**

**LIBEL FILED:** March 12, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** During September 1951, from Fort Worth, Tex.

**PRODUCT:** 12 cases, each containing 24 14-ounce packages, of candy at Ottumwa, Iowa, in the possession of the Midwest Potato Chip Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, insect webbing, and insect excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 11, 1953. Default decree of condemnation. The court ordered that the product be delivered to public institution, for use as animal feed.

**SIRUP**

**20403. Adulteration and misbranding of sorghum sirup. U. S. v. Joseph E. Jones (Jones Sorghum Mill). Plea of guilty. Fine, \$50. (F. D. C. No. 34840. Sample Nos. 34227-L, 34228-L, 34243-L.)**

**INFORMATION FILED:** April 15, 1953, Southern District of Mississippi, against Joseph E. Jones, trading as Jones Sorghum Mill, Conehatta, Miss.

**ALLEGED SHIPMENT:** On or about February 5, 1952, from the State of Mississippi into the State of Tennessee.

**LABEL, IN PART:** (Portion of article) "Country Sorghum Best by Taste Test Made at Jones Sorghum Mill Conehatta, Miss. Net Weight 5 Pounds."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance consisting of a mixture of sorghum, corn sirup, and sugar had been substituted for sorghum.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, namely, sorghum; and, Section 403 (i) (2), the article was



fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient. Further misbranding, Section 403 (a), the statement "Sorghum" appearing on the label of a portion of the article was false and misleading since it represented and suggested that the article consisted entirely of sorghum, whereas it consisted of a mixture of sorghum, corn sirup, and sugar; and Section 403 (e) (1) and (2), a portion of the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents.

**DISPOSITION:** September 21, 1953. The defendant having entered a plea of guilty, the court fined him \$50.

**20404. Adulteration and misbranding of sorghum sirup. U. S. v. 11 Cases \* \* \*.**  
(F. D. C. No. 34784. Sample No. 19807-L.)

**LIBEL FILED:** March 31, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 18, 1953, by Roy McClain, from Joplin, Mo.

**PRODUCT:** 11 cases, each containing 12 1-quart, 13-ounce cans, of sorghum sirup at Albert Lea, Minn.

**LABEL, IN PART:** (Can) "Country Sorghum Made by W. W. Dollar & Sons Rural Route 1 Rogers, Ark."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of glucose and sorghum.

**DISPOSITION:** May 22, 1953. Default decree of condemnation. The court ordered that the amount of the product actually seized, consisting of 1 case and 10 cans of the product, be turned over to the Food and Drug Administration for disposition.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**20405. Adulteration of bakery products. U. S. v. Fogelson Bros., Inc., and Nathan Fogelson. Pleas of nolo contendere. Each defendant fined \$500. Individual defendant also placed on probation for 6 months.**  
(F. D. C. No. 34323. Sample Nos. 36744-L to 36750-L, incl., 49452-L.)

**INDICTMENT RETURNED:** March 24, 1953, District of New Jersey, against Fogelson Bros., Inc., Newton, N. J., and Nathan Fogelson, secretary-treasurer.

**ALLEGED SHIPMENT:** On or about August 28 and 29, 1952, from the State of New Jersey into the State of New York.

**LABEL, IN PART:** "Fogelson's White Mountain Bread," "Fogelson's Better Bread," "Fogelson's Better [or "Sandwich"] Rolls," "Fogelson's Danish Coffee Cake," or "Fogelson's Quality Vienna Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** April 17, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$500 and sentenced the individual defendant to 6 years in jail. The jail sentence against the individual was suspended, and the court placed him on probation for 6 months.

### FLOUR

**20406. Adulteration of flour. U. S. v. 16 Bags \* \* \*. (F. D. C. No. 35261. Sample No. 14343-L.)**

**LIBEL FILED:** May 20, 1953, District of New Mexico.

**ALLEGED SHIPMENT:** On or about April 9, 1953, from Fort Morgan, Colo.

**PRODUCT:** 16 100-pound bags of flour at Gallup, N. Mex., in the possession of the Bake Rite Bakery.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 23, 1953. Default decree of condemnation and destruction.

### MACARONI AND NOODLE PRODUCTS

**20407. Adulteration of spaghetti and macaroni. U. S. v. 24 Cases, etc. (F. D. C. No. 34697. Sample Nos. 65615-L, 65616-L.)**

**LIBEL FILED:** March 4, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 27, 1953, by the Milwaukee Macaroni Co., from Milwaukee, Wis.

**PRODUCT:** 24 cases, each containing 24 12-ounce packages, of spaghetti, and 4 cases, each containing 12 1-pound packages, of macaroni, at Waukegan, Ill.

**LABEL, IN PART:** (Packages) "Pagliacci Spaghetti [or "Vermicelli"]" and "Pagliacci Brand Invincible Quality \* \* \* Semoline Macaroni Products \* \* \* Rotini."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** April 22, 1953. Default decree of condemnation and destruction.

**20408. Adulteration and misbranding of egg noodles. U. S. v. 40 Cases, etc. (F. D. C. No. 34799. Sample Nos. 54238-L, 54239-L.)**

**LIBEL FILED:** April 6, 1953, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about February 4, 1953, by J. Coffaro & Sons, from Chicago, Ill.

**PRODUCT:** 40 cases of broad egg noodles and 48 cases of medium egg noodles at Monroe, Mich. Each case contained 12 12-ounce packages.

**LABEL, IN PART:** (Package) "Aunt Sarah's Pure Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in whole or in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles since the total solids of the article



contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

**DISPOSITION:** May 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use.

**20409. Adulteration and misbranding of egg noodles. U. S. v. 16 Cases \* \* \*.**  
(F. D. C. No. 34800. Sample No. 58850-L.)

**LIBEL FILED:** April 10, 1953, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about January 27, 1953, by J. Coffaro & Sons, from Chicago, Ill.

**PRODUCT:** 16 cases, each containing 12 16-ounce packages, of egg noodles at South Bend, Ind.

**LABEL, IN PART:** (Package) "Kluski Simon's Brand \* \* \* Pure Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in whole or in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

**DISPOSITION:** June 18, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20410. Adulteration of brewers corn flakes. U. S. v. 65 Bags \* \* \*.** (F. D. C. No. 34797. Sample No. 8301-L.)

**LIBEL FILED:** April 2, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 2, 1953, from Geneva, N. Y.

**PRODUCT:** 65 80-pound bags of brewers corn flakes, at Altoona, Pa., in the possession of the Altoona Brewing Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 6, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20411. Adulteration of unpopped popcorn. U. S. v. 50 Cases, etc.** (F. D. C. No. 34632. Sample Nos. 54861-L to 54864-L, incl.)

**LIBEL FILED:** February 2, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about November 28, 1952, from San Jose, Calif. This was a return shipment.

**PRODUCT:** 88 cases, each containing 24 10-ounce packages, and 73 cases, each containing 24 1-pound packages, of unpopped popcorn at Dixon, Ill.

**LABEL, IN PART:** (Package) "Red & White Brand Large Yellow Pop Corn" and "Red & White Brand White Hullless Pop Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: August 14, 1953. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20412. Adulteration of unpopped popcorn. U. S. v. 75 Bags \* \* \*. (F. D. C. No. 34802. Sample No. 41001-L.)**

LIBEL FILED: April 3, 1953, Western District of Washington.

ALLEGED SHIPMENT: On or about February 28, 1952, from Nampa, Idaho.

PRODUCT: 75 100-pound bags of unpopped popcorn at Seattle, Wash., in the possession of the Olympic Warehouse & Cold Storage Co.

LABEL, IN PART: "Dickinson's Little Buster Hulless Popping Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine, rodent excreta, and rodent-gnawed grains; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 4, 1953. Lang & Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation under the supervision of the Department of Health, Education, and Welfare. 1,535 pounds of the product were found unfit and were denatured for use as animal feed.

**20413. Adulteration of rice. U. S. v. 12 Bags, etc. (F. D. C. No. 34777. Sample Nos. 55453-L, 55454-L.)**

LIBEL FILED: March 26, 1953, Northern District of New York.

ALLEGED SHIPMENT: On or about July 31 and December 22, 1952, and January 27, 1953, from Houston, Tex.

PRODUCT: 12 100-pound bags and 27 25-pound bags of rice at Albany, N. Y., in the possession of the George Terminal Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 13, 1953. Default decree of condemnation and destruction.

**20414. Adulteration of brewers rice. U. S. v. 6,000 Bags \* \* \*. (F. D. C. No. 32841. Sample No. 15202-L.)**

LIBEL FILED: March 12, 1952, District of Nebraska.

ALLEGED SHIPMENT: On or about June 7, 14, 15, and 16, 1951, from Woodward's Landing, British Columbia, Canada.

PRODUCT: 6,000 100-pound bags of brewers rice at Omaha, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent excreta, and rodent hairs. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 27, 1952. Canada Rice Mills, Ltd., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the



court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was converted into alcohol.

**20415. Adulteration of wheat. U. S. v. 34,200 Pounds \* \* \*. (F. D. C. No. 34794. Sample No. 61335-L.)**

**LIBEL FILED:** April 1, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about March 28, 1953, from Whiting, Iowa, by the Southside Cooperative Elevator Co.

**PRODUCT:** 34,200 pounds of wheat at Omaha, Nebr.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** April 2, 1953. The Southside Cooperative Elevator Co., Whiting, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was denatured and sold as animal feed.

## DAIRY PRODUCTS

### BUTTER

**20416. Adulteration of butter. U. S. v. Youngstown Creamery Co. Plea of nolo contendere. Fine, \$200. (F. D. C. No. 34346. Sample Nos. 35959-L, 35961-L.)**

**INFORMATION FILED:** May 18, 1953, Northern District of Ohio, against the Youngstown Creamery Co., a corporation, Youngstown, Ohio.

**ALLEGED SHIPMENT:** On or about September 3, 1952, from the State of Ohio into the State of Pennsylvania.

**LABEL, IN PART:** "Sweet Cottage Creamery Butter \* \* \* Distributed by The Cottage Creamery Co., Cleveland, Ohio," "Cottage Creamery Sweet Butter \* \* \* The Cottage Creamery Co., Cleveland, Ohio Distributors," "The Cottage Creamery Co., Cleveland, Ohio Dist. \* \* \* Wayne County Butter," and "Wayne County Butter \* \* \* The Cottage Creamery Co., Cleveland, Ohio Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect and plant fragments, fly parts, and rodent hair fragments, and it consisted also in part of a decomposed substance by reason of the use of decomposed cream in its manufacture.

**DISPOSITION:** May 29, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$200.

**20417. Adulteration of butter. U. S. v. 196 Cubes (11,760 pounds) \* \* \*. (F. D. C. No. 34170. Sample No. 43676-L.)**

**LIBEL FILED:** May 7, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 22, 1953, by the Midland Milk Products Co., from Hannibal, Mo.

**PRODUCT:** 196 60-pound cubes of butter at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 15, 1953. Wilsey, Bennett Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

### CHEESE

**20418. Misbranding of brick cheese. U. S. v. 15 Boxes \* \* \*. (F. D. C. No. 34966. Sample No. 33508-L.)**

**LIBEL FILED:** April 23, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 6, 1953, by the Farmer's Cheese Co., from Watertown, Wis.

**PRODUCT:** 15 boxes, each containing 125 pounds, of brick cheese at Chicago, Ill.

**LABEL, IN PART:** "Wisconsin State Brand 44-A Made from pasteurized Milk."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Made from pasteurized Milk" was false and misleading as applied to the article, which was made from milk which had not been pasteurized; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for brick cheese since the milk used in the manufacture of the article had not been pasteurized and the article had not been cured at a temperature of not less than 35° F. for a period of not less than 60 days. The definition and standard provides that if the milk used in the manufacture of brick cheese is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F. for a period of not less than 60 days.

**DISPOSITION:** July 7, 1953. The Farmer's Cheese Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare.

### FISH AND SHELLFISH

**20419. Adulteration of frozen fish. U. S. v. 1,852 Pounds, etc. (F. D. C. No. 34610. Sample Nos. 50041-L, 50042-L.)**

**LIBEL FILED:** January 23, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 19, 22, 23, and 26, 1952, from Panama City, Cocoa, and West Palm Beach, Fla., and South Haven, Mich.

**PRODUCT:** Frozen fish. 1,852 pounds of fish in 64 slabs and 835 pounds of fish in 23 slabs at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 24, 1953. Default decree of condemnation and destruction.

**20420. Adulteration of frozen catfish fillets. U. S. v. 99 Cases \* \* \*. (F. D. C. No. 34750. Sample No. 62269-L.)**

**LIBEL FILED:** March 13, 1953, Western District of Tennessee.



**ALLEGED SHIPMENT:** On or about February 3, 1953, by Morris Fisheries, from Chicago, Ill.

**PRODUCT:** 99 cases, each containing 10 5-pound packages, of frozen catfish fillets at Memphis, Tenn.

**LABEL, IN PART:** (Package) "An Eskimo Brand Product Quick Frozen Ocean Catfish Fillets \* \* \* Grimsby Frozen Products Ltd. Grimsby England."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** April 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for conversion into tankage under the supervision of the Department of Health, Education, and Welfare.

**20421. Adulteration of frozen catfish fillets. U. S. v. 94 Cases \* \* \*. (F. D. C. No. 34883. Sample No. 59631-L.)**

**LIBEL FILED:** March 9, 1953, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about February 3, 1953, by Morris Fisheries, from Chicago, Ill.

**PRODUCT:** 94 cases, each containing 10 boxes, of frozen catfish fillets at Greenville, S. C.

**LABEL, IN PART:** (Box) "Quick Frozen Ocean Catfish Fillets Net Weight 5 lbs. An Eskimo Brand Product \* \* \* Grimsby Frozen Products Ltd. Grimsby England."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** April 16, 1953. Default decree of condemnation and destruction.

**20422. Adulteration of canned salt codfish. U. S. v. 144 Cases \* \* \*. (F. D. C. No. 34754. Sample Nos. 69284-L, 69285-L, 69371-L, 69373-L, 69374-L.)**

**LIBEL FILED:** March 16, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 2, 4, and 11, 1953, by Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.

**PRODUCT:** 144 cases, each containing 12 11½-ounce cans, of salt codfish at Denver, Colo.

**LABEL, IN PART:** (Can) "Gorton's Salt Codfish."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** May 21, 1953. The shipper, claimant, having consented to the entry of a decree and the court having found that a portion of the product which was identified by certain code numbers was adulterated and that the remainder of the product which was identified by different code numbers was not adulterated, the court entered a decree of condemnation against the adulterated portion. The court ordered that the entire product be released under bond for segregation and destruction of the adulterated portion, under the supervision of the Department of Health, Education, and Welfare, after which the unadulterated portion was to be released to the claimant. 1,073 cans which

were identified by the code numbers of the portion of the product found to be adulterated were segregated and destroyed.

**20423. Adulteration of frozen haddock fillets. U. S. v. 201 Cases \* \* \*. (F. D. C. No. 34798. Sample No. 39774-L.)**

**LIBEL FILED:** April 2, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about December 15, 1951, by the Mariners Fish Co., from Gloucester, Mass.

**PRODUCT:** 201 cases, each containing 24 1-pound packages, of frozen haddock fillets at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** April 21, 1953. Default decree of condemnation. The court ordered that the product be denatured for use in the production of fertilizer tankage.

**20424. Misbranding of chum salmon steaks. U. S. v. Romeo Packing Co. Plea of nolo contendere. Fine, \$3,000. (F. D. C. No. 33756. Sample Nos. 29643-L, 30068-L, 30572-L.)**

**INDICTMENT RETURNED:** April 22, 1953, Northern District of California, against the Romeo Packing Co., a corporation, Half Moon Bay, Calif.

**ALLEGED SHIPMENT:** On or about October 31 and November 5 and 7, 1951, from the State of California into the State of Washington.

**NATURE OF CHARGE:** Misbranding, Section 403 (b), the article was offered for sale under the name of another food, silver salmon steaks.

**DISPOSITION:** The defendant filed a motion to dismiss the indictment, which was denied on June 3, 1953. Thereafter, the defendant entered a plea of nolo contendere, and on September 1, 1953, the court fined it \$3,000.

**20425. Adulteration of canned salmon. U. S. v. 6,327 Cases \* \* \*. (F. D. C. No. 34790. Sample Nos. 64220-L, 64222-L.)**

**LIBEL FILED:** April 1, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 2, 1952, by Parks Canneries, from Cordova, Alaska.

**PRODUCT:** 6,327 cases, each containing 48 unlabeled 1-pound cans, of salmon at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed salmon.

**DISPOSITION:** April 11, 1953. The Parks Canneries Co., the Western Fisheries Co., H. M. Parks Co., Inc., and the Ivanof Bay Packing Co., claimants, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and sorting under the supervision of the Department of Health, Education, and Welfare. 953 cases of the product were found unfit and were destroyed.

**20426. Adulteration of sardines. U. S. v. 75 Cases \* \* \*. (F. D. C. No. 34958. Sample No. 49917-L.)**

**LIBEL FILED:** April 17, 1953, Southern District of New York.



**ALLEGED SHIPMENT:** The product was imported from a foreign country in 1947.  
**PRODUCT:** 75 cases, each containing 100 cartoned tins, of sardines at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 6, 1953. Default decree of condemnation and destruction.

**20427. Adulteration of frozen red snappers. U. S. v. 1,109 Pounds, etc. (F. D. C. No. 34627. Sample Nos. 50044-L, 50045-L.)**

**LIBEL FILED:** January 27, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about November 25 and 28, 1952, from Panama City and New Smyrna, Fla.

**PRODUCT:** 1,747 pounds of frozen red snappers at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 24, 1953. Default decree of condemnation and destruction.

**20428. Adulteration of whitefish and ciscoes. U. S. v. 5 Cases, etc. (F. D. C. No. 34923. Sample No. 23325-L.)**

**LIBEL FILED:** March 31, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 24, 1953, by Union Fisheries, from New York, N. Y.

**PRODUCT:** 5 cases and 1 barrel containing a total of 1,000 pounds of a mixture of whitefish and ciscoes at Newark, N. J.

**LABEL, IN PART:** "Product of Canada Big River Sask Packed by Waite Fisheries."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** May 19, 1953. Default decree of condemnation and destruction.

**20429. Adulteration of frozen dressed whitefish. U. S. v. 64 Cartons \* \* \*. (F. D. C. No. 34695. Sample No. 66020-L.)**

**LIBEL FILED:** March 4, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 26 and February 7, 1953, by Keystone Fisheries, Ltd., from Winnipeg, Canada.

**PRODUCT:** 64 cartons of frozen dressed whitefish at Chicago, Ill.

**LABEL, IN PART:** "Dr Whitefish 64 Lbs When Packed Rat Lake Man. DSD Whitefish 2133 Manitoba Jumbo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

**DISPOSITION:** June 5, 1953. Default decree of condemnation and destruction.

**20430. Adulteration of canned clams. U. S. v. 93 Cases \* \* \*. (F. D. C. No. 35038. Sample No. 41153-L.)**

**LIBEL FILED:** May 15, 1953, District of Oregon.

**ALLEGED SHIPMENT:** On or about March 23, 1953, by the Mohawk Packing Co., from Moclips, Wash.

**PRODUCT:** 93 cases, each containing 48 cans, of clams at Portland, Oreg. Examination showed that the average drained weight of the product was 3.27 ounces per can, whereas the size can used for the product should have contained a minimum of 3.5 ounces of drained clams.

**LABEL, IN PART:** (Can) "Sportsman's Pride Net Wt. 7 Oz. Minced Razor Clams Packed In Clam Broth—Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), diluted clam juice had been substituted in part for minced razor clams.

**DISPOSITION:** August 11, 1953. The Mohawk Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20431. Misbranding of spiced prawns. U. S. v. 12 Jars, etc. (F. D. C. No. 34703. Sample Nos. 29384-L, 29410-L.)**

**LIBEL FILED:** On or about February 13, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about January 15 and 30, 1953, by Nate's Prawns, from Portland, Oreg.

**PRODUCT:** 12 jars and 8 cases, each case containing 24 jars, of spiced prawns at Seattle, Wash.

**LABEL, IN PART:** (Jar) "Nate's Premier Spiced Prawns \* \* \* 6 Ozs. [or "7 Ozs."] Drained Weight."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product failed to bear labels containing an accurate statement of the quantity of the contents since the label statements "6 Ozs. Drained Weight" and "7 Ozs. Drained Weight" were inaccurate. (The jars were short in drained weight.)

**DISPOSITION:** August 18, 1953. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be delivered to a Marine hospital.

## **FRUITS AND VEGETABLES**

### **CANNED FRUIT**

**20432. Adulteration of canned blueberries. U. S. v. 14 Cases \* \* \*. (F. D. C. No. 34779. Sample No. 55626-L.)**

**LIBEL FILED:** March 26, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about September 2, 1950, from Cherryfield, Maine.

**PRODUCT:** 14 cases, each containing 24 15-ounce cans, of blueberries at Fayetteville, N. Y. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 29, 1953. Default decree of condemnation and destruction.

**20433. Adulteration of canned pie peaches. U. S. v. 148 Cases \* \* \*. (F. D. C. No. 34944. Sample No. 2559-L.)**

**LIBEL FILED:** April 16, 1953, Southern District of Florida.



**ALLEGED SHIPMENT:** On or about December 12, 1952, from San Francisco, Calif.  
**PRODUCT:** 148 cases, each containing 6 6-pound, 7-ounce cans, of pie peaches at Jacksonville, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 14, 1953. Default decree of condemnation and destruction.

**20434. Misbranding of canned peaches. U. S. v. 680 Cases \* \* \*. (F. D. C. No. 34801. Sample No. 58856-L.)**

**LIBEL FILED:** April 13, 1953, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about August 25, 1952, by the Carolina Canning Co., from Inman, S. C.

**PRODUCT:** 680 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Fort Wayne, Ind.

**LABEL, IN PART:** (Can) "Campton Brand \* \* \* Mixed Pieces of Irregular Sizes and Shapes Yellow Freestone Peaches Packed in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the regulations, the name of the optional packing medium present in the article since its label bore the statement "in Heavy Syrup," whereas the article was packed in sirup designated as light sirup in the regulations.

**DISPOSITION:** April 25, 1953. The Carolina Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### JAMS, JELLIES, AND PRESERVES

**20435. Misbranding of jelly, preserves, and marmalade. U. S. v. 15 Cases, etc. (F. D. C. No. 34604. Sample Nos. 43877-L, 43893-L to 43896-L, incl.)**

**LIBEL FILED:** January 13, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about August 9 and September 15, 1952, by St. Joseph Foods, Inc., from St. Joseph, Mo.

**PRODUCT:** 15 cases, each containing 12 jars, of strawberry jelly; 21 cases, each containing 12 jars, of grape jelly; 35 cases, each containing 12 jars, of raspberry jelly; 23 cases, each containing 12 jars, of pineapple preserves; and 23 cases, each containing 12 jars, of orange marmalade, at Omaha, Nebr.

**LABEL, IN PART:** (Jars) "Albert's Finest '69' Pure Strawberry [or "Grape" or "Red Raspberry"] Jelly \* \* \* Net Wt. 12 Ozs." and "Albert's Finest '69' Pure Pineapple Preserves [or "Sweet Orange Marmalade"] Net Wt. 12 Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the products failed to bear a label containing an accurate statement of the quantity of the contents since the jars contained less than the labeled "Net Wt. 12 Ozs."

Further misbranding, Section 403 (g) (1), the strawberry jelly and red raspberry jelly failed to conform to the definitions and standards of identity for such jellies since they were made from mixtures composed of less than 45 parts by weight of the fruit juice ingredients (strawberry or red rasp-

berry) to each 55 parts by weight of one of the saccharine ingredients specified in the definitions and standards.

Further misbranding, Section 403 (g) (1), the pineapple preserves failed to conform to the definition and standard of identity for such preserves since the soluble-solids content of the article was less than 68 percent, the minimum permitted by the definition and standard.

DISPOSITION: January 30, 1953. Default decree of condemnation. The court ordered that the products be delivered to charitable institutions.

**20436. Misbranding of peach preserves and apricot preserves. U. S. v. 145 Cases, etc. (F. D. C. No. 34763. Sample Nos. 16540-L, 16541-L, 61232-L to 61234-L, incl.)**

**LIBEL FILED:** March 24, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about May 20 and June 12, 1952, by Colonial Mfg. Co., Inc., from Oklahoma City, Okla.

**PRODUCT:** 145 cases, each containing 24 jars, of peach preserves, and 234 cases, each containing 24 jars, of apricot preserves at Coffeyville, Kans.

**LABEL, IN PART:** (Jars) "Zestee Pure Peach [or "Apricot"] Preserves Net Wt. 12 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear labels containing accurate statements of the quantity of the contents. (Examination showed that the articles were short weight.)

**DISPOSITION:** May 14, 1953. Default decree of condemnation. The court ordered that the products be delivered to a charitable institution.

## VEGETABLES

**20437. Adulteration of canned cut green beans. U. S. v. 119 Cases \* \* \*. (F. D. C. No. 34751. Sample No. 19806-L.)**

**LIBEL FILED:** March 16, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** During September 1950, from Merrill, Wis.

**PRODUCT:** 119 cases, each containing 24 15-ounce cans, of cut green beans at Mankato, Minn. Examination showed that the article had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 18, 1953. A default decree was entered providing for the destruction of the product unless denatured for use as animal feed.

**20438. Adulteration of navy beans. U. S. v. 16 Bags \* \* \*. (F. D. C. No. 34778. Sample No. 55455-L.)**

**LIBEL FILED:** March 26, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about October 21 and 27, 1952, from North Branch and Bad Axe, Mich.

**PRODUCT:** 16 100-pound bags of navy beans at Albany, N. Y., in the possession of the George Terminal Warehouse.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby



it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 27, 1953. Default decree of condemnation and destruction.

**20439. Adulteration and misbranding of canned black-eyed peas. U. S. v. 97 Cases \* \* \*. (F. D. C. No. 34796. Sample No. 53205-L.)**

**LIBEL FILED:** On or about April 9, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about February 10, 1953, by the Good Canning Co., from Fort Smith, Ark.

**PRODUCT:** 97 cases, each containing 6 cans, of black-eyed peas at Springfield, Mo.

**LABEL, IN PART:** "Contents 1 Lb. 3 Oz. G. D. M. Brand Fresh Shelled Blackeye Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents 1 Lb. 3 Oz." was inaccurate. (Each can of the article contained 7 pounds.)

DISPOSITION: May 22, 1953. Default decree of destruction.

**20440. Adulteration of canned mustard greens. U. S. v. 21 Cases \* \* \* and 1 other seizure action). (F. D. C. Nos. 34727, 34728. Sample Nos. 42474-L, 43218-L.)**

**LIBELS FILED:** March 5, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about November 26 and December 8, 1952, by the Akin Products Co., from Mission, Tex.

**PRODUCT:** 419 cases, each containing 24 1-pound cans, of mustard greens at San Francisco, Calif.

**LABEL, IN PART:** (Can) "Val-Tex Mustard Greens."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of aphids and larvae.

DISPOSITION: May 8, 1953. Default decrees of condemnation and destruction.

**TOMATOES AND TOMATO PRODUCTS**

**20441. Adulteration of canned tomatoes. U. S. v. 724 Cases \* \* \*. (F. D. C. No. 34287. Sample No. 53429-L.)**

**LIBEL FILED:** December 8, 1952, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 20, 1952, by Thomas Roberts & Co., Inc., from Philadelphia, Pa.

**PRODUCT:** 724 cases, each containing 24 cans, of tomatoes at Petersburg, Ill.

**RESULTS OF INVESTIGATION:** Inspection of the Brown Canning Co., Woodside, Del., manufacturer of the product, showed that insanitary conditions existed which would result in contamination of the article manufactured.

**LABEL, IN PART:** (Can) "Pride of the Farm Brand Contents 1 Lb. 3 Oz. Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs

and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 28, 1954. The consignee of the product having filed an answer to the libel and later having withdrawn the answer, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20442. Misbranding of canned tomatoes. U. S. v. 1,148 Cases \* \* \*. (F. D. C. No. 34680. Sample No. 67100-L.)**

LIBEL FILED: February 24, 1953, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 13, 1952, by Robbins Bros., from Andrews, Md.

PRODUCT: 1,148 cases, each containing 24 1-pound cans, of tomatoes at Philadelphia, Pa.

LABEL, IN PART: (Can) "Nancy Belle Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: April 15, 1953. Robbins Brothers, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20443. Misbranding of canned tomatoes. U. S. v. 548 Cases \* \* \*. (F. D. C. No. 34618. Sample No. 66937-L.)**

LIBEL FILED: January 23, 1953, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 12, 1952, by the Silverbrook Food Corp., from Wilmington, Del.

PRODUCT: 548 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Shenandoah, Pa.

LABEL, IN PART: (Can) "Lucky Dutchman \* \* \* Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel, and the label failed to bear, as required by regulations, a statement that the product fell below such standard.

DISPOSITION: May 5, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

**20444. Misbranding of canned tomatoes. U. S. v. 49 Cases \* \* \*. (F. D. C. No. 32986. Sample No. 13024-L.)**

LIBEL FILED: March 28, 1952, District of New Mexico.

ALLEGED SHIPMENT: On or about September 8, 1951, by the Marshall Canning Co., from McAllen, Tex.

PRODUCT: 49 cases, each containing 48 cans, of tomatoes at Albuquerque, N. Mex.

LABEL, IN PART: (Can) "Renown Brand Tomatoes Contents 10 Oz. Avoir. Packed by St. Clair Foods Co., Ltd., McAllen, Texas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes since the article failed



to meet the specifications for strength or redness of color prescribed by the standard, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: April 29, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**20445. Adulteration of tomato sauce. U. S. v. 55 Cases \* \* \*. (F. D. C. No. 34731. Sample No. 69070-L.)**

LIBEL FILED: On or about February 26, 1953, Northern District of Mississippi.

ALLEGED SHIPMENT: On or about November 7, 1952, by the Delta Canning Co., from Raymondville, Tex.

PRODUCT: 55 cases, each containing 72 8-ounce cans, of tomato sauce at Greenville, Miss.

LABEL, IN PART: (Can) "Frost Brand \* \* \* Spanish Style Tomato Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 18, 1953. Default decree of condemnation and destruction.

## NUTS

**20446. Adulteration of pecan meats. U. S. v. 75 Cartons \* \* \*. (F. D. C. No. 34773. Sample Nos. 64847-L, 64848-L.)**

LIBEL FILED: March 26, 1953, District of Minnesota.

ALLEGED SHIPMENT: On or about January 21 and February 2 and 19, 1953, by Ricci & Co., from Chicago, Ill.

PRODUCT: 75 30-pound cartons of pecan meats at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid and moldy pecans, and it was otherwise unfit for food by reason of the presence of bitter, discolored areas.

DISPOSITION: April 30, 1953. Ricci & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The fit portion was segregated from the unfit portion, with the result that 881 pounds of the product were found unfit and were denatured.

**20447. Adulteration of unshelled walnuts. U. S. v. 8 Bags, etc. (F. D. C. No. 34807. Sample Nos. 20738-L, 20739-L.)**

LIBEL FILED: April 6, 1953, Southern District of Iowa.

ALLEGED SHIPMENT: On or about October 30, 1952, from Los Angeles, Calif.

PRODUCT: 8 100-pound bags and 11 50-pound bags of unshelled walnuts at Marshalltown, Iowa, in the possession of the Letts-Fletcher Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent-gnawed walnuts; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 29, 1953. Western Grocer, a Division of the Consolidated Grocers Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 108 pounds of the product were found unfit and were destroyed.

## **SPICES, FLAVORS, AND SEASONING MATERIALS**

**20448. Adulteration of dried chili pods. U. S. v. 184 Bags \* \* \*. (F. D. C. No. 34576. Sample No. 44202-L.)**

**LIBEL FILED:** January 30, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about November 25, 1952, by the E. C. Fogal Ranch, from Huntington Beach, Calif.

**PRODUCT:** 184 230-pound bags of dried chili pods at Oklahoma City, Okla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** February 27, 1953. E. C. Fogal, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Food and Drug Administration.

As a result of the segregation operations, 1,309 pounds of the product were found unfit and were destroyed.

**20449. Adulteration and misbranding of black pepper. U. S. v. 1,236 Shakers \* \* \*. (F. D. C. No. 34885. Sample No. 49837-L.)**

**LIBEL FILED:** March 10, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 4, 1953, by Unger & Sons, from Brooklyn, N. Y.

**PRODUCT:** 1,236 shakers of black pepper at Passaic, N. J.

**LABEL, IN PART:** (Shaker) "Pure Black Pepper Contents  $\frac{5}{16}$  Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of pepper with salt had been substituted in whole or in part for black pepper, which the article purported to be; and, Section 402 (b) (4), salt had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (a), the label designation "Pure Black Pepper" was false and misleading as applied to an article consisting of pepper with salt added.

**DISPOSITION:** May 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to certain charitable organizations, provided that examination by the Food and Drug Administration showed that the product was fit for human consumption.

**20450. Adulteration and misbranding of french dressing. U. S. v. 14 Cases \* \* \*. (F. D. C. No. 34783. Sample No. 58842-L.)**

**LIBEL FILED:** March 27, 1953, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about January 15, 1953, by U. S. Brands, Inc., from Cleveland, Ohio.



PRODUCT: 14 cases, each containing 12 8-ounce jars, of french dressing at Kalamazoo, Mich.

LABEL, IN PART: (Jar) "Quaker French Dressing."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil, the minimum permitted by the definition and standard.

DISPOSITION: April 23, 1953. The shipper and the consignee of the product having indicated that they did not desire to contest the matter, judgment of condemnation was entered and the court ordered that the product be delivered to a Federal institution for its use and not for sale.

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## SHIPPERS, MANUFACTURERS. AND DISTRIBUTORS

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Akin Products Co.:		Grimsby Frozen Products, Ltd.:	
canned mustard greens	20440	frozen catfish fillets	20420, 20421
Altoona Brewing Co.:		Jones, J. E.:	
brewers corn flakes	20410	sorghum sirup	20403
Bake Rite Bakery:		Jones Sorghum Mill. <i>See</i> Jones, J. E.	
flour	20406	Keystone Fisheries, Ltd.:	
Brown Canning Co.:		frozen dressed whitefish	20429
canned tomatoes	20441	Letts-Fletcher Co.:	
California Peanut Co.:		unshelled walnuts	20447
candy	20401	McClain, Roy:	
Carolina Canning Co.:		sorghum sirup	20404
canned peaches	20434	Mariners Fish Co.:	
Coffaro, J., & Sons:		frozen haddock fillets	20423
egg noodles	20408, 20409	Marshall Canning Co.:	
Colonial Mfg. Co., Inc.:		canned tomatoes	20444
peach preserves and apricot preserves	20436	Midland Milk Products Co.:	
Cottage Creamery Co.:		butter	20417
butter	20416	Midwest Potato Chip Co.:	
Delta Canning Co.:		candy	20402
tomato sauce	20445	Milwaukee Macaroni Co.:	
Dollar, W. W., & Sons:		spaghetti and macaroni	20407
sorghum sirup	20404	Mohawk Packing Co.:	
Farmer's Cheese Co.:		canned clams	20430
brick cheese	20418	Morris Fisheries:	
Fogal, E. C., Ranch:		frozen catfish fillets	20420, 20421
dried chili pods	20448	Nate's Prawns:	
Fogelson, Nathan:		spiced prawns	20431
bakery products	20405	Olympic Warehouse & Cold Storage Co.:	
Fogelson Bros., Inc.:		unpopped popcorn	20412
bakery products	20405	Parks Canneries:	
George Terminal Warehouse:		cauned salmon	20425
beans, navy	20438	Ricci & Co.:	
rice	20413	pecan meats	20446
Good Canning Co.:		Robbins Bros.:	
canned black-eyed peas	20439	canned tomatoes	20442
Gorton-Pew Fisheries Co., Ltd.:			
canned salt codfish	20422		



	N. J. No.		N. J. No.
Roberts, Thomas, & Co., Inc.:		Unger & Sons:	
canned tomatoes-----	20441	black pepper-----	20449
Romeo Packing Co.:		Union Fisheries:	
chum salmon steaks-----	20424	whitefish and ciscoes-----	20428
St. Clair Foods Co., Ltd.:		U. S. Brands, Inc.:	
canned tomatoes-----	20444	french dressing-----	20450
St. Joseph Foods, Inc.:		Waite Fisheries:	
jelly, preserves, and marma-		whitefish and ciscoes-----	20428
lade -----	20435	Youngstown Creamery Co.:	
Silverbrook Food Corp.:		butter-----	20416
canned tomatoes-----	20443		
Southside Cooperative Elevator			
Co.:			
wheat-----	20415		

# THE

# FEDERAL REGISTER

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"Just as everyone is charged with knowledge of the United States Statutes at Large, Congress has provided that the appearance of rules and regulations in the FEDERAL REGISTER gives legal notice of their contents."

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## FEDERAL REGISTER

VOLUME 18  
Washington, Tuesday, February 10, 1953  
NUMBER 27

### TITLE 2—THE PRESIDENT

#### EXECUTIVE ORDER 10453

Production of Materials for the National Archives

By virtue of the authority vested in me by the Constitution and the laws of the United States, I hereby order that all records, documents, papers, and other materials in the possession, custody, or control of any Federal agency, which are of historical or scientific interest, shall be preserved and made available to the National Archives.

It is the policy of the United States Government to preserve and make available to the National Archives all records, documents, papers, and other materials of historical or scientific interest.

It is the duty of all Federal agencies to preserve and make available to the National Archives all records, documents, papers, and other materials of historical or scientific interest.

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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

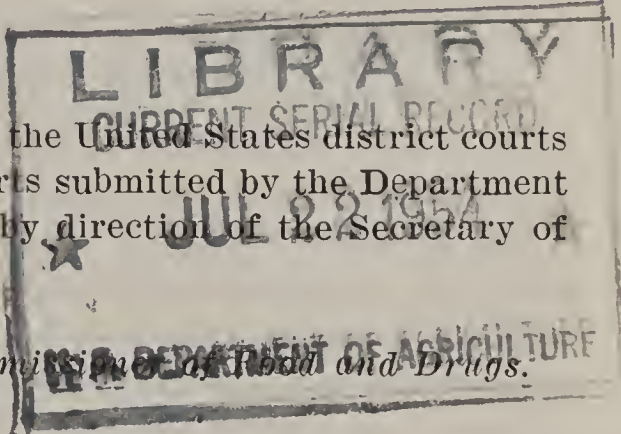
[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20451-20500

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*  
WASHINGTON, D. C., June 30, 1954.



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**CANDY AND SIRUP****CANDY**

**20451. Adulteration of peanut butter kisses. U. S. v. Empire State Nut Co., Inc. Plea of guilty. Fine, \$500. (F. D. C. No. 34825. Sample Nos. 6715-L, 8713-L, 8749-L.)**

**INFORMATION FILED:** During May 1953, Northern District of New York, against Empire State Nut Co., Inc., Albany, N. Y.

**ALLEGED SHIPMENT:** On or about July 3, 17, and 28, 1952, from the State of New York into the States of Maine and Massachusetts.

**LABEL, IN PART:** "Capitol Brand Peanut Butter Kisses."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 25, 1953. The defendant having entered a plea of guilty, the court fined it \$500.

**SIRUP**

**20452. Adulteration and misbranding of sorghum sirup. U. S. v. 86 Cases, etc. (F. D. C. No. 34760. Sample Nos. 61078-L, 61079-L.)**

**LIBEL FILED:** March 18, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about September 13, 1952, and January 3, 1953, by Ray Sloan, from Van Buren, Ark.

**PRODUCT:** Sorghum sirup. 86 cases, each containing 12 4½-pound jars, and 399 cases, each containing 6 4½-pound jars, at Hutchinson, Kans.

**LABEL, IN PART:** (Jar) "New Crop Sorghum Packed for Ray Sloan Van Buren, Ark. [or "D. Gallagher Condon, Ark."]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading.

**DISPOSITION:** May 25, 1953. J. S. Dillon & Sons, Hutchinson, Kans., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.

**20453. Adulteration and misbranding of sorghum sirup. U. S. v. 85 Cases \* \* \*. (F. D. C. No. 34759. Sample No. 61095-L.)**

**LIBEL FILED:** March 17, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about January 13 and 20, 1953, from Van Buren, Ark., by Ray Sloan.

**PRODUCT:** 85 cases, each containing 6 4½-pound jars, of sorghum sirup at Kansas City, Mo.

**LABEL, IN PART:** (Jar) "New Crop Sorghum Packed for D. Gallagher Condon, Ark."



**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of glucose and sorghum.

**DISPOSITION:** June 10, 1953. The Hershey Wholesale Grocery Co., Kansas City, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20454. Adulteration and misbranding of sorghum sirup. U. S. v. 45 Cases, etc.** (F. D. C. No. 34713. Sample Nos. 61072-L to 61074-L, incl.)

**LIBEL FILED:** February 19, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about January 7 and 15, 1953, by Glenn Dawson, from Springdale, Ark.

**PRODUCT:** 45 cases, each containing 12 1-quart, 1-pint cans, of sorghum sirup, together with 29 1-quart, 1-pint cans, and 7 1-quart, 12-ounce cans, of sorghum sirup at Coffeyville, Kans.

**LABEL, IN PART:** (Cans) "Pure Sand Mountain Sorghum \* \* \* Made By Jake Alaxzander Rudy Ark.," "Sorghum Syrup Made For J. Dawson Springdale Ark.," or "Sorghum Made For and Guaranteed By M. Dawson & Son Springdale Arkansas."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a mixture of glucose and sorghum had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a mixture of glucose and sorghum.

**DISPOSITION:** August 27, 1953. Food Town Super Markets, Inc., Pittsburg, Kans., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## CEREALS AND CEREAL PRODUCTS

### FLOUR

**20455. Adulteration of flour. U. S. v. 317 Bags, etc.** (F. D. C. No. 35061. Sample Nos. 20169-L, 20170-L.)

**LIBEL FILED:** June 8, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about February 25 and March 13, 1953, from Great Falls, Mont.

**PRODUCT:** 317 50-pound bags and 25 100-pound bags of flour at Rapid City, S. Dak., in the possession of the Nash-Finch Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 26, 1953. The Nash-Finch Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into com-

pliance with the law, under the supervision of the Department of Health, Education, and Welfare. 191 50-pound bags and 7 100-pound bags of the product were found unfit and were denatured for use as animal feed.

### MISCELLANEOUS CEREALS

**20456. Adulteration of rice. U. S. v. 11 Bags \* \* \*. (F. D. C. No. 35043. Sample No. 65057-L.)**

**LIBEL FILED:** May 20, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about December 24, 1952, from Stuttgart, Ark.

**PRODUCT:** 11 100-pound bags of rice at Huron, S. Dak., in the possession of the Park Grant Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 22, 1953. The owner of the product having admitted the allegations of the libel and consented to the disposition of the product without further notice, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20457. Adulteration of wheat. U. S. v. 123,000 \* \* \*. (F. D. C. No. 34795. Sample No. 65017-L.)**

**LIBEL FILED:** April 4, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 20, 1953, by the Peavey Elevator, from Seneca, S. Dak.

**PRODUCT:** 123,000 pounds of wheat at East Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** May 29, 1953. F. H. Peavey & Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.

**20458. Adulteration of wheat. U. S. v. 106,000 \* \* \*. (F. D. C. No. 33381. Sample No. 48546-L.)**

**LIBEL FILED:** June 5, 1952, District of Minnesota.

**ALLEGED SHIPMENT:** On or about May 20, 1952, by the Pickert Grain Co., from Pickert, N. Dak.

**PRODUCT:** 106,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** July 23, 1952. The Pickert Grain Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court



ordered that the product be released under bond for reprocessing into seed wheat, under the supervision of the Federal Security Agency.

**20459. Adulteration of wheat. U. S. v. 102,480 Pounds \* \* \*. (F. D. C. No. 35002. Sample No. 41626-L.)**

**LIBEL FILED:** April 21, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 15, 1953, by the Norris Grain Co., from Toledo, Ohio.

**PRODUCT:** 102,480 pounds of wheat at High Spire, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** May 19, 1953. Stickle-Swift, Inc., Lansing, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Department of Health, Education, and Welfare.

**20460. Adulteration of wheat. U. S. v. 1 Carload \* \* \*. (F. D. C. No. 34960. Sample No. 58111-L.)**

**LIBEL FILED:** April 20, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 8, 1953, by the Ralston Purina Co., from Davenport, Iowa.

**PRODUCT:** 1 carload of wheat at Blue Island, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** April 27, 1953. The Ralston Purina Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.

## DAIRY PRODUCTS

### BUTTER

**20461. Adulteration of butter. U. S. v. American Dairies, Inc. Plea of guilty. Fine of \$750, plus costs. (F. D. C. No. 34848. Sample Nos. 15224-L, 44225-L, 44705-L, 44706-L.)**

**INFORMATION FILED:** June 9, 1953, Western District of Missouri, against American Dairies, Inc., Kansas City, Mo.

**ALLEGED SHIPMENT:** On or about July 11 and August 7, 1952, from the State of Missouri into the State of Massachusetts.

**LABEL, IN PART:** "Penn Valley Brand Creamery Butter" or "Prairie Rose Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, fly setae, moth scales, mites, rodent hairs, and rodent hair fragments, and by reason of the use of filth-contaminated milk in the manufacture of the article;

and a portion of the article consisted in part of a decomposed substance by reason of the use of decomposed cream in its manufacture.

DISPOSITION: July 10, 1953. The defendant having entered a plea of guilty, the court fined it \$750, plus costs.

### CHEESE

20462. Misbranding of cheddar cheese. U. S. v. 10 Longhorns \* \* \*. (F. D. C. No. 35318. Sample No. 72343-L.)

LIBEL FILED: On or about June 20, 1953, District of Maryland.

ALLEGED SHIPMENT: On or about May 19, 1953, by Valley Cheese Co., Inc., from Moorefield, W. Va.

PRODUCT: 10 longhorns of cheddar cheese at Cumberland, Md.

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for cheddar cheese since the solids of the article contained less than 50 percent of milk fat, the minimum permitted by the definition and standard.

DISPOSITION: August 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

### FISH AND SHELLFISH

20463. Adulteration of frozen ocean catfish fillets. U. S. v. 338 Cases \* \* \*. (F. D. C. No. 35223. Sample No. 49920-L.)

LIBEL FILED: May 5, 1953, Eastern District of New York.

ALLEGED SHIPMENT: On or about August 22, 1952, by Robert Chapman, Ltd., from Grimsby, England.

PRODUCT: 338 cases, each containing 12 cartons, of frozen ocean catfish fillets at Brooklyn, N. Y.

LABEL, IN PART: (Carton) "The 'Polar' Brand Quick Frozen Skinless Ocean Catfish Fillets \* \* \* 5 lb. Net Weight."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: August 1, 1953. Viggo Christensen, New York, N. Y., having appeared as claimant and later having withdrawn his claim, judgment of condemnation was entered and the court ordered that the product be destroyed.

20464. Adulteration of frozen ocean catfish fillets. U. S. v. 418 Pounds \* \* \*. (F. D. C. No. 35244. Sample No. 50086-L.)

LIBEL FILED: May 18, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about April 23, 1953, from Louisville, Ky.

PRODUCT: 418 pounds of frozen ocean catfish fillets in 10 cartons at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 2, 1953. Default decree of condemnation and destruction.



**20465. Adulteration of frozen red snappers. U. S. v. 49 Crates \* \* \*. (F. D. C. No. 35255. Sample No. 50091-L.)**

**LIBEL FILED:** May 21, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 1, 1953, from Jacksonville, Fla.

**PRODUCT:** 49 100-pound crates of frozen red snappers at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 5, 1953. Default decree of condemnation and destruction.

**20466. Adulteration of canned shrimp. U. S. v. 6 Cases \* \* \*. (F. D. C. No. 35331. Sample No. 57675-L.)**

**LIBEL FILED:** On or about June 23, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about April 7, 1953, by Mavar Shrimp & Oyster Co., Ltd., of Biloxi, Miss., from Mobile, Ala.

**PRODUCT:** 6 cases, each containing 24 cans, of shrimp at Baltimore, Md. Examination showed that the product contained blackened shrimp, resulting from contact of the shrimp with the metal container so as to make them repulsive in appearance.

**LABEL, IN PART:** (Can) "Victor Brand Wet Pack Broken Shrimp Drained Wt. 5 Ounces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of blackened shrimp.

**DISPOSITION:** July 14, 1953. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20467. Misbranding of canned apricots. U. S. v. 74 Cases \* \* \*. (F. D. C. No. 35317. Sample No. 42487-L.)**

**LIBEL FILED:** June 22, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 14, 1953, by the Soule-Gibbs Co., from San Francisco, Calif.

**PRODUCT:** 74 cases, each containing 24 1-pound cans, of apricots at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Crawford's Best Whole Peeled Apricots \* \* \* In Extra Heavy Syrup.

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned apricots, a food for which a definition and standard of identity has been prescribed by regulations, and the label of the article failed to bear, as required by the definition and standard, the name of the optional packing medium present in the article since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as heavy sirup in the definition and standard.

**DISPOSITION:** July 15, 1953. James Crawford & Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for

relabeling under the supervision of the Department of Health, Education, and Welfare.

**20468. Misbranding of canned cherries. U. S. v. 240 Cases \* \* \*. (F. D. C. No. 35332. Sample No. 41056-L.)**

**LIBEL FILED:** June 24, 1953, District of Montana.

**ALLEGED SHIPMENT:** On or about December 3, 1952, by Varney Canning, Inc., from Roy, Utah.

**PRODUCT:** 240 cases, each containing 24 1-pound, 3-ounce cans, of cherries at Great Falls, Mont.

**LABEL, IN PART:** (Can) "Leota Brand Red Sour Pitted Cherries Packed in Water."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for pitted canned cherries because of an excessive number of pits and because an excessive number of cherries were blemished with skin discoloration, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** September 8, 1953. Varney Canning, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### JAMS, JELLIES, AND PRESERVES

**20469. Adulteration of jelly. U. S. v. 52 Cases \* \* \*. (F. D. C. No. 34934. Sample No. 53193-L.)**

**LIBEL FILED:** On or about April 9, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about October 25 and November 22, 1952, by Colonial Mfg. Co., Inc., from Oklahoma City, Okla.

**PRODUCT:** 52 cases, each containing 24 12-ounce jars, of assorted jelly at Springfield, Mo.

**LABEL, IN PART:** (Jar) "Milligan Leader Pure Apple Black Raspberry [or "Apple Strawberry" or "Apple Grape"] Jelly."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), articles containing artificial color had been substituted for apple-black raspberry jelly, apple-strawberry jelly, and apple-grape jelly.

**DISPOSITION:** June 1953. A default decree was entered providing for the delivery of the products to a charitable organization.

**20470. Misbranding of jelly. U. S. v. 16 Cases, etc. (F. D. C. No. 34933. Sample Nos. 53191-L, 53192-L, 53209-L, 53210-L.)**

**LIBEL FILED:** On or about April 9, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 24, 1952, and March 7, 1953, from Oklahoma City, Okla., by Colonial Mfg. Co., Inc.

**PRODUCT:** 16 cases, each containing 12 2-pound-size jars, and 49 cases, each containing 24 12-ounce-size jars, of apple-black raspberry jelly; 5 cases, each containing 24 12-ounce-size jars, of apple jelly; and 48 cases, each containing 12 2-pound-size jars, of assorted apple-strawberry, apple-black raspberry, and apple-grape jelly at Springfield, Mo.



**LABEL, IN PART:** (Jar) "Colonial Pure Apple-Black Raspberry Jelly," "Colonial Pure Apple Jelly," "Colonial Pure Apple-Strawberry [or "Apple-Black Raspberry" or "Apple-Grape"] Jelly."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles in the 16-case lot, 5-case lot, and 48-case lot failed to bear labels containing an accurate statement of the quantity of the contents since the label statements (16- and 48-case lots) "Net Weight 2 Lbs." and (5-case lot) "Net Weight 12 Oz." were inaccurate. (Examination showed that the articles in such lots were short weight.)

Further misbranding, Section 403 (g) (1), the articles in the 16-case lot, 48-case lot, and 49-case lot failed to conform to the definitions and standards of identity for fruit jelly since such articles contained added artificial color, which is not permitted as an ingredient of fruit jelly in the definitions and standards.

**DISPOSITION:** June 3, 1953. A default decree was entered providing for the delivery of the products to charitable institutions.

**20471. Misbranding of peach preserves, strawberry preserves, and grape jam.**

U. S. v. 100 Cases, etc. (F. D. C. No. 35403. Sample Nos. 62594-L to 62596-L, incl.)

**LABEL FILED:** August 27, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about March 28 and April 21, 1953, by Colonial Mfg. Co., Inc., from Oklahoma City, Okla.

**PRODUCT:** 100 cases of peach preserves, 36 cases of strawberry preserves, and 135 cases of grape jam at Pine Bluff, Ark. Each case contained 12 2-pound-size jars.

**LABEL, IN PART:** (Jar) "Mrs. Wilkes' \* \* \* Pure Peach Preserves [or "Pure Strawberry Preserves" or "Pure Grape Jam"]."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear labels containing an accurate statement of the quantity of the contents since the label statements "Net Weight 2 Lbs." or "Net Wt. 2 Lbs." were inaccurate. (Examination showed that the articles were short weight.)

Further misbranding, Section 403 (g) (1), the articles purported to be and were represented as fruit preserves, foods for which definitions and standards of identity have been prescribed by regulations, and they failed to conform to such definitions and standards since the articles had not been concentrated by heat to such point that their soluble-solids were not less than 65 percent with respect to the peach preserves and not less than 68 percent with respect to the strawberry preserves and grape jam.

**DISPOSITION:** September 25, 1953. Colonial Mfg. Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**MISCELLANEOUS FRUIT PRODUCTS**

**20472. Adulteration of grape nectar. U. S. v. 236 Cases \* \* \*. (F. D. C. No. 32896. Sample No. 21879-L.)**

**LABEL FILED:** March 21, 1952, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about October 5, 1951, by Butterfield Canning Co., Inc., from Warren, Ind.

**PRODUCT:** 236 cases, each containing 12 cans, of grape nectar at Dallas, Tex.  
**LABEL, IN PART:** (Can) "Contents 1 Qt. 14 Fl. Ozs. Val-Sweet Grape Nectar  
Packed by Val-Sweet Company San Francisco, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** May 6, 1952. Default decree of condemnation and destruction.

**20473. Adulteration of prune juice. U. S. v. 95 Cases \* \* \*. (F. D. C. No. 34461. Sample No. 26446-L.)**

**LIBEL FILED:** On or about January 7, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 18, 1952, by the American Fig & Date Co., from New York, N. Y.

**PRODUCT:** 95 cases, each containing 12 quart bottles, of prune juice at Camden, N. J.

**LABEL, IN PART:** (Bottle) "Tartan \* \* \* Prune Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect excreta.

**DISPOSITION:** March 17, 1953. Default decree of condemnation and destruction.

#### VEGETABLES AND VEGETABLE PRODUCTS\*

**20474. Adulteration of artichokes. U. S. v. 44 Half Crates, etc. (F. D. C. No. 35243. Sample No. 51713-L.)**

**LIBEL FILED:** May 15, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 25, 1953, by the California Artichoke & Vegetable Growers Corp., from Castroville, Calif.

**PRODUCT:** 44 half crates and 4 full crates of artichokes at New York, N. Y.

**LABEL, IN PART:** "Ocean Mist Brand California Artichokes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms and worm excreta.

**DISPOSITION:** May 20, 1953. Default decree of condemnation and destruction.

**20475. Adulteration of navy beans. U. S. v. 14 Bags \* \* \*. (F. D. C. No. 34806. Sample No. 20571-L.)**

**LIBEL FILED:** April 6, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 7, 1952, from Saginaw, Mich.

**PRODUCT:** 14 100-pound bags of navy beans at Keokuk, Iowa, in the possession of the S. Hamill Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

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\*See also No. 20487.



**DISPOSITION:** June 8, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

**20476. Adulteration and misbranding of canned black-eyed peas. U. S. v. 296 Cases, etc. (F. D. C. No. 34787. Sample Nos. 53615-L, 53616-L.)**

**LIBEL FILED:** On or about April 9, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about February 10, 1953, by the Good Canning Co., from Fort Smith, Ark.

**PRODUCT:** 296 cases, each containing 24 cans, and 146 cases, each containing 24 cans, of black-eyed peas at Springfield, Mo.

**LABEL, IN PART:** (Can) "Contents 1 Lb. 0 Oz. G. D. M. Brand Fresh Shelled Blackeye Peas" or "Contents 1 Lb. 3 Oz. G. D. M. Brand Fresh Shelled Blackeye Peas."

**NATURE OF CHARGE:** Adulteration (146-case lot), Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

Misbranding (296-case lot), Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents 1 Lb. 0 Oz." was inaccurate. (Examination showed that this lot was short weight.)

**DISPOSITION:** On June 16, 1953, the Good Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the 296-case lot of the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. This lot of the product was relabeled. In July 1953, the court entered an order directing that the 146-case lot be destroyed.

**20477. Adulteration of canned black-eyed peas. U. S. v. 26 Cases \* \* \*. (F. D. C. No. 34737. Sample Nos. 29388-L, 29691-L.)**

**LIBEL FILED:** March 6, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about December 3, 1952, from Fort Smith, Ark., by the Good Canning Co.

**PRODUCT:** 26 cases, each containing 24 15-ounce cans, of black-eyed peas at Seattle, Wash.

**LABEL, IN PART:** (Can) "Dependable Brand \* \* \* Fresh Shelled Blackeye Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** May 18, 1953. Default decree of condemnation and destruction

**20478. Adulteration of kosher style gherkins. U. S. v. 198 Cases \* \* \*. (F. D. C. No. 34927. Sample No. 45174-L.)**

**LIBEL FILED:** March 31, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 30, 1952, by the Original Canning Co. from Brooklyn, N. Y.

**PRODUCT:** 198 cases, each containing 12 1-quart jars, of kosher style gherkins at Worcester, Mass.

**LABEL, IN PART:** (Jar) "Lush'us Kosher Style Gherkins."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of dirt and grit.

**DISPOSITION:** August 6, 1953. Default decree of condemnation and destruction.

**20479. Adulteration of canned sauerkraut. U. S. v. 70 Cases \* \* \*. (F. D. C. No. 34745. Sample No. 34559-L.)**

**LIBEL FILED:** March 19, 1953, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about January 5, 1953, by the Green Bay Food Co., from Green Bay, Wis.

**PRODUCT:** 70 cases, each containing 24 1-pound cans, of sauerkraut at Peoria, Ill.

**LABEL, IN PART:** (Can) "L'Art Brand Northern Grown Sauer Kraut."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 15, 1953. Default decree of condemnation and destruction.

**20480. Adulteration of vegetable juice. U. S. v. 158 Cases, etc. (F. D. C. No. 34941. Sample No. 73056-L.)**

**LIBEL FILED:** April 13, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 2, 1953, from Scranton, Pa., by Carl Krauth, trading as the Kay Fruit Co.

**PRODUCT:** 158 cases, each containing 12 No. 3 cans, and 1 case, containing 24 No. 2 cans, of vegetable juice at Gloucester, N. J.

**LABEL, IN PART:** (Portion of cans) "V-8 Cocktail Vegetable Juices Contents 1 Qt. 14 Fl. Oz. [or "Contents 1 Pt. 2 Fl. Oz."] \* \* \* Packed By Standard Brands Incorporated New York, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance, and it was otherwise unfit for food by reason of the presence of pieces of lacquer peeled from the inner coating of the cans.

**DISPOSITION:** May 15, 1953. Default decree of condemnation and destruction.

## **TOMATOES AND TOMATO PRODUCTS**

**20481. Misbranding of canned tomatoes. U. S. v. 746 Cases \* \* \*. (F. D. C. No. 34959. Sample No. 51642-L.)**

**LIBEL FILED:** April 20, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 31, 1953, by H. P. Tull & Co., from Kingston, Md.

**PRODUCT:** 746 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Hawthorne, N. J.

**LABEL, IN PART:** (Can) "Iona Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** May 19, 1953. H. P. Tull & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court



ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20482. Misbranding of canned tomatoes. U. S. v. 292 Cases \* \* \*. (F. D. C. No. 34748. Sample No. 53483-L.)**

**LIBEL FILED:** March 13, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about January 31, 1953, by Steinfeldt-Thompson Co., Inc., from Dania, Fla.

**PRODUCT:** 292 cases, each containing 24 1-pound cans, of tomatoes at St. Louis, Mo.

**LABEL, IN PART:** (Can) "Golden Harvest Brand Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes since it contained excessive peel and excessive blemishes, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** April 21, 1953. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was relabeled.

**20483. Misbranding of canned tomatoes. U. S. v. 23 Cases \* \* \*. (F. D. C. No. 34764. Sample No. 53199-L.)**

**LIBEL FILED:** On or about March 31, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about December 2, 1952, by the Allen Canning Co., from Siloam Springs, Ark.

**PRODUCT:** 23 cases, each containing 6 cans, of tomatoes at West Plains, Mo.

**LABEL, IN PART:** (Can) "King of Ozarks Brand Standard Grade Tomatoes Contents 6 Lbs. 6 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel.

**DISPOSITION:** August 7, 1953. A default decree was entered providing for the delivery of the product to a Federal institution, for consumption by the inmates.

**20484. Adulteration of tomato juice. U. S. v. 83 Cases \* \* \*. (F. D. C. No. 34780. Sample No. 61426-L.)**

**LIBEL FILED:** March 26, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about November 4, 1952, by Shuttleworth Foods, Inc., from Warren, Ind.

**PRODUCT:** 83 cases, each containing 24 1-pint, 2-ounce cans, of tomato juice at Enid, Okla.

**LABEL, IN PART:** (Can) "Santa Fe Brand Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** May 12, 1953. The Ranney-Davis Mercantile Co., Enid, Okla., having filed an answer admitting the ownership of the product and stating that the product was purchased in good faith, and the court having found that

the product was adulterated as alleged in the libel, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20485. Adulteration of tomato puree. U. S. v. 267 Cases \* \* \*. (F. D. C. No. 34882. Sample No. 44945-L.)**

**LIBEL FILED:** On or about March 25, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about January 7, 1953, by the Uddo & Taormina Co., from Buena Park, Calif.

**PRODUCT:** 267 cases, each containing 24 cans. of tomato puree at Providence, R. I.

**LABEL, IN PART:** (Can) "Progresso Brand \* \* \* Tomato Puree \* \* \* Contents 1 Lb. 12 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 23, 1953. Upon motion of the shipper, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20486. Adulteration of tomato puree. U. S. v. 9 Cases \* \* \*. (F. D. C. No. 34789. Sample No. 73019-L.)**

**LIBEL FILED:** March 30, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 30, 1952, by the Uddo & Taormina Co., from Vineland, N. J.

**PRODUCT:** 9 cases, each containing 48 10½-ounce cans, of tomato puree at Hazleton, Pa.

**LABEL, IN PART:** (Can) "Mountain Beauty \* \* \* Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** May 14, 1953. Default decree of condemnation and destruction.

## NUTS

**20487. Adulteration of unshelled almonds and dried lima beans. U. S. v. 13 Bags, etc. (F. D. C. No. 35019. Sample Nos. 61342-L, 61343-L.)**

**LIBEL FILED:** May 4, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about August 25, 1949, and November 29, 1951, from Oakland and Oxnard, Calif.

**PRODUCT:** 13 100-pound bags of unshelled almonds and 35 100-pound bags of dried lima beans at Grand Island, Nebr., in the possession of the Donald Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent excreta in both articles, rodent-gnawed nuts in the almonds, and rodent urine in the lima beans; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 28, 1953. The Donald Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be brought into compliance



with the law, under the supervision of the Department of Health, Education, and Welfare. The dried lima beans were denatured for use as animal feed; the almonds were thoroughly washed and dried, after which they were released for disposition by the claimant.

**20488. Adulteration and misbranding of pecan meats. U. S. v. 33 Bags \* \* \*.**  
(F. D. C. No. 34804. Sample No. 20550-L.)

**LIBEL FILED:** April 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about February 10, 1953, by the Gold Kist Pecan Growers, from Waycross, Ga.

**PRODUCT:** 33 30-pound bags of pecan meats at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed nuts.

Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

**DISPOSITION:** June 9, 1953. A default decree was entered providing for the destruction of the product unless denatured under the supervision of the Food and Drug Administration for use as animal feed.

**20489. Adulteration of pecan meats. U. S. v. 9 Boxes \* \* \*.** (F. D. C. No. 34774.  
Sample No. 64849-L.)

**LIBEL FILED:** March 25, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On an unknown date from places outside of the State of Minnesota.

**PRODUCT:** 9 30-pound boxes of pecan meats at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid and moldy pecans, and it was otherwise unfit for food by reason of the presence of bitter discolored areas. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 9, 1953. A default decree was entered providing for the destruction of the product unless denatured for use as animal feed.

## OLEOMARGARINE

**20490. Possession and serving of colored oleomargarine or colored margarine. U. S. v. Alphonse Vincellette (Al's Lunch). Plea of guilty. Fine, \$10.**  
(F. D. C. No. 34328. Sample No. 44258-L.)

**INFORMATION FILED:** March 2, 1953, District of Rhode Island, against Alphonse Vincellette, trading as Al's Lunch, Pawtucket, R. I.

**ALLEGED VIOLATION:** On or about August 29, 1952, at Pawtucket, R. I., the defendant unlawfully possessed and served quantities of colored oleomargarine, or colored margarine.

**NATURE OF CHARGE:** Colored oleomargarine, or colored margarine, was possessed by the defendant in violation of Section 407 (c), in that the article was possessed at a public eating place, namely, Al's Lunch, and was in a form ready for serving; and a notice that oleomargarine, or margarine, was being served at that public eating place was not displayed prominently and conspicuously, or at all, in the stated public eating place, and such notice was

not printed or otherwise set forth on the menu at the stated public eating place.

Colored oleomargarine, or colored margarine, was served by the defendant in further violation of Section 407 (c), in that the article was served at a public eating place, namely, Al's Lunch, and was a separate serving which (1) did not bear, and was not accompanied by, labeling identifying it as oleomargarine, or margarine, or (2), was not triangular in shape.

**DISPOSITION:** April 22, 1953. The defendant having entered a plea of guilty, the court fined him \$10.

## POULTRY

**20491. Adulteration of dressed poultry. U. S. v. Dodge-Freedman Poultry Co. and Harry Freedman. Plea of guilty by company and plea of nolo contendere by individual. Fine of \$300 against company and \$100 against individual. (F. D. C. No. 34365. Sample No. 49539-L.)**

**INFORMATION FILED:** April 22, 1953, District of New Hampshire, against the Dodge-Freedman Poultry Co., a corporation, Concord, N. H., and Harry Freedman, president and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about October 29, 1952, from the State of New Hampshire into the State of New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased poultry.

**DISPOSITION:** June 5, 1953. The corporation having entered a plea of guilty and the individual a plea of nolo contendere, the court fined the corporation \$300 and the individual \$100.

**20492. Adulteration of dressed poultry. U. S. v. Western Star Mill Co. (C. K. Packing Co.), and Earnest A. Jones. Pleas of nolo contendere. Each defendant fined \$100. (F. D. C. No. 34832. Sample Nos. 153-L, 15845-L.)**

**INFORMATION FILED:** May 25, 1953, Western District of Oklahoma, against the Western Star Mill Co., a corporation, trading under the name of the C. K. Packing Co., Oklahoma City, Okla., and against Earnest A. Jones, plant manager for the corporation.

**ALLEGED SHIPMENT:** On or about October 7 and 30, 1952, from the State of Oklahoma into the State of Kansas.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 5, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$100.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20493. Adulteration of dried chili pepper pods. U. S. v. 9 Bags \* \* \*. (F. D. C. No. 34781. Sample No. 48742-L.)**

**LIBEL FILED:** March 28, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about March 11, 1952, from Florence, S. C.



**PRODUCT:** 9 bags containing from 95 to 135 pounds of dried chili pepper pods at Winona, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 22, 1953. Default decree of destruction.

**20494. Adulteration of chilies. U. S. v. 117 Bags \* \* \*. (F. D. C. No. 34964. Sample No. 23301-L.)**

**LIBEL FILED:** April 21, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 27, 1950, from Istanbul, Turkey.

**PRODUCT:** 117 55-pound bags of chilies at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 15, 1953. Van Loan & Co., Inc., New York, N. Y., claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 3,019 pounds of the product were found unfit and were destroyed.

**20495. Adulteration of chilies. U. S. v. 46 Bags \* \* \*. (F. D. C. No. 34967. Sample No. 23300-L.)**

**LIBEL FILED:** April 24, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 4, 1950, from Turkey.

**PRODUCT:** 46 88-pound bags of chilies at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 15, 1953. Van Loan & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating and destroying the unfit portion under the supervision of the Department of Health, Education, and Welfare. 906 pounds were found unfit and were destroyed.

**20496. Adulteration and misbranding of black pepper. U. S. v. 1 Drum \* \* \*. (F. D. C. No. 34738. Sample No. 54492-L.)**

**LIBEL FILED:** March 4, 1953, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about January 21, 1953, from Chicago, Ill., by Kearns & Smith Spice Co., Inc.

PRODUCT: 1 drum containing 25 pounds of black pepper at Milwaukee, Wis.

LABEL, IN PART: "K & S Brand Grd. Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, pepper, had been in part omitted from the article; and, Section 402 (b) (2), a mixture of black pepper, cottonseed hulls, wheat flour, soybean flour, and grains of paradise had been substituted in whole or in part for pepper.

Misbranding, Section 403 (a), the label designation "Black Pepper" was false and misleading as applied to a mixture of black pepper, cottonseed hulls, wheat flour, soybean flour, and grains of paradise.

DISPOSITION: April 13, 1953. Default decree of condemnation and destruction.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

20497. Adulteration and misbranding of multiple vitamin capsules. U. S. v. 5 Bottles \* \* \*. (F. D. C. No. 34734. Sample No. 17241-L.)

LABEL FILED: March 6, 1953, Southern District of California.

ALLEGED SHIPMENT: On or about December 6, 1950, from Syracuse, N. Y.

PRODUCT: 5 bottles of multiple vitamin capsules at Los Angeles, Calif. Analysis showed that the product contained 60 percent of the declared amount of vitamin D.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Capsule Contains: Vitamin D \* \* \* 500 U. S. P. Units" was false and misleading as applied to the article, which contained less than that amount of vitamin D.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: April 27, 1953. Default decree of condemnation and destruction.

20498. Adulteration and misbranding of Orvita. U. S. v. 9 Bottles \* \* \*. (F. D. C. No. 34741. Sample No. 56472-L.)

LABEL FILED: March 6, 1953, Southern District of Ohio.

ALLEGED SHIPMENT: On or about June 26 and July 16, 1951, from Los Angeles, Calif.

PRODUCT: 9 1-pint bottles of Orvita, a dietary supplement, at Cincinnati, Ohio. Analysis showed that the product contained less than 10 percent of the declared amount of vitamin B<sub>12</sub>.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>12</sub>, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "3 teaspoonsful contains: \* \* \* Vitamin B<sub>12</sub> U. S. P. 3 Mcg." was false and misleading as applied to the article, which contained less than that amount of vitamin B<sub>12</sub>.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: April 20, 1953. Default decree of condemnation and destruction.

20499. Misbranding of Vit-Ra-Tox No. 21. U. S. v. 25 Cartons \* \* \*. (F. D. C. No. 34391. Sample Nos. 62612-L, 62613-L.)

LABEL FILED: January 6, 1953, Eastern District of Missouri.



**ALLEGED SHIPMENT:** On or about December 16 and 24, 1952, by V. E. Irons, Inc., from Franklin and Boston, Mass.

**PRODUCT:** 25 cartons of Vit-Ra-Tox No. 21 at St. Louis, Mo.

**NATURE OF CHARGE:** Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be and by regulations prescribed as necessary in order fully to inform purchasers as to its value for such uses, in that its label failed to bear (1) a statement of the dietary properties with respect to vitamins and minerals upon which such use was based; (2) a statement of the proportion of the minimum daily requirements for the vitamins for which minimum daily requirements had been established and which would be supplied by the article when consumed in a specified quantity during a period of one day; (3) a statement of the amount of the vitamins contained in the article for which minimum daily requirements had not been established; (4) a statement that the need in human nutrition for vitamins E, F, and the P fraction of the C complex and the Wulzen factor of the F complex had not been established; and (5) a statement of the proportion of the minimum daily requirements for iron, calcium, phosphorus, and iodine which would be supplied by the article when consumed in a specified quantity during a period of one day. The article was misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

The article was alleged to be misbranded also under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4136.

**DISPOSITION:** January 30, 1953. Default decree of condemnation. The court ordered that a portion of the article be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20500. Misbranding of Camson Brand Trael Trace Mineral Concentrate. U. S. v. 58 Drums \* \* \*. (F. D. C. No. 34655. Sample No. 14515-L.)**

**LIBEL FILED:** February 6, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about May 16, 1952, by the Campbell Hudson Co., from Rochelle, Ill.

**PRODUCT:** 58 25-pound drums of Camson Brand Trael Trace Mineral Concentrate at Denver, Colo. Examination showed that the article contained 65 percent of manganese sulfate and smaller proportions of the other substances listed on the label.

**LABEL, IN PART:** "Camson Brand Trael Trace Mineral Concentrate \* \* \*  
Ingredients: Cobalt Sulphate Copper Sulphate Zinc Sulphate Manganese Sulphate Magnesium Sulphate Iron Sulphate Dextrose Anise."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements which appeared in the labeling of the article, namely, on the drum label and on leaflets in the drums, were false and misleading. The statements represented and suggested that all of the inorganic components of the article possessed nutritional value for cattle, sheep, and hogs; that deficiencies of such substances existed in the rations of those animals; that the proportions of such substances incorporated in the article had some scientific or rational basis; and that feeding the article to animals as recommended would result in their

overall improvement. There exists no known deficiency of manganese or zinc in the rations for cattle, sheep, and hogs; there is no recognized need for cobalt in the diet of hogs; there is no scientific or rational basis for the proportions of the several ingredients of the article; feeding the article to animals as recommended would not result in their overall improvement; and the article would not fulfill the promises of benefit stated and implied.

DISPOSITION: March 30, 1953. Default decree of condemnation and destruction.

## INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 20451 TO 20500

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# THE

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U. S. Department of Health, Education, and Welfare

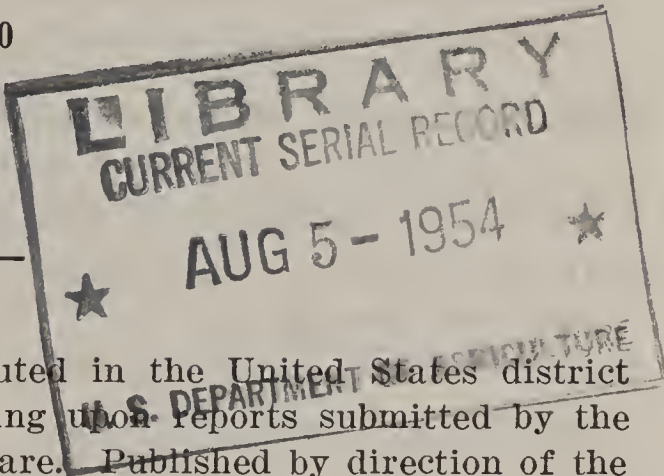
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20501-20550

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *July 12, 1954.*

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**BEVERAGES AND BEVERAGE MATERIALS**

**20501. Adulteration of green coffee. U. S. v. 454 Bags \* \* \*. (F. D. C. No. 33087. Sample No. 22629-L.)**

**LIBEL FILED:** April 22, 1952, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about March 14, 1952, by Leon Israel & Bros., from New Orleans, La.

**PRODUCT:** 454 bags, each containing 132 pounds, of green coffee at Houston, Tex.

**LABEL, IN PART:** "Camillieri DF Genova, In Transitto Switzerland-Brazil Kinlay Product Of Brazil-Embarcado."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of animal excreta and insect-damaged coffee beans.

**DISPOSITION:** September 15, 1953. The Duncan Coffee Co., Houston, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for cleaning under the supervision of the Department of Health, Education, and Welfare. As a result of the cleaning operations, 146 bags of the product were found unfit and were destroyed.

**20502. Misbranding of matte (maté). U. S. v. 53 Cylinders \* \* \*. (F. D. C. No. 34162. Sample No. 44418-L.)**

**LIBEL FILED:** November 20, 1952, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 22, 1952, by David Komisar & Son, Inc., from New York, N. Y.

**PRODUCT:** 53 cylinders of matte (maté) at Boston, Mass. Examination showed that the product was maté.

**LABEL, IN PART:** (Cylinder) "Gold Brand Matte The Energizing Brazilian Tea Nature's Golden Drink delicious stimulating \* \* \* Net Weight ½ Pound."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the following label statements, namely, "The Energizing Brazilian Tea \* \* \* is prepared identically as is common tea \* \* \* energizing \* \* \* supplies vitamins and minerals \* \* \* tonic effects \* \* \* its natural dietetic properties aid the body to throw off excess uric acid \* \* \* supplies quick energy and helps to resist unusual mental and physical strain" were false and misleading since the article was not tea; it did not provide nutritionally significant amounts of vitamins and minerals; and it was not effective in the treatment of the conditions stated and implied.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4096.

**DISPOSITION:** David Komisar & Son, Inc., appeared as claimant and filed an answer denying that the product was misbranded. Thereafter, upon agreement of the parties, the case was removed for trial to the United States District Court for the Eastern District of New York. Interrogatories were filed by the Government on April 15, 1953. Upon failure of the claimant to answer the interrogatories, a motion was filed by the Government to strike the claimant's answer to the libel and for a default decree of condemnation. No opposition to the motion having been interposed, the court, on September 4, 1953,



granted the motion and entered a default decree of condemnation and destruction.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**20503. Adulteration of bread. U. S. v. Max Frank (Frank's Bakery). Plea of guilty. Fine of \$100, plus costs. (F. D. C. No. 32812. Sample Nos. 48782-L to 48785-L, incl.)**

**INFORMATION FILED:** September 4, 1952, Southern District of Iowa, against Max Frank, trading as Frank's Bakery, Davenport, Iowa.

**ALLEGED SHIPMENT:** On or about March 13, 1952, from the State of Iowa into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 24, 1953. The defendant having entered a plea of guilty, the court fined him \$100, plus costs.

**20504. Misbranding of Cheddar-Ettes and Ricettes. U. S. v. 69 Cases, etc. (F. D. C. No. 34905. Sample Nos. 45172-L, 45173-L.)**

**LIBEL FILED:** March 20, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about February 9 and 25, 1953, by Twixt, Inc., from Long Island City, N. Y.

**PRODUCT:** 69 cases, each containing 12 jars, of Cheddar-Ettes, and 24 cases, each containing 24 jars, of Ricettes at Boston, Mass.

**LABEL, IN PART:** (Jar) "Overland Cheddar-Ettes Net Wt. 3½ Oz." and "Overland Ricettes Net Wt. 4 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear labels containing an accurate statement of the quantity of the contents since the label statements (69-case lot) "Net Wt. 3½ Oz." and (24-case lot) "Net Wt. 4 Oz." were inaccurate. (Examination showed that the articles were short weight.)

**DISPOSITION:** April 27, 1953. The S. S. Pierce Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### FLOUR

**20505. Adulteration of flour. U. S. v. Autry Greer & Sons, E. Sumner Greer, J. Barton Greer, and Autry V. Greer. Pleas of guilty. Fine of \$75 against each defendant. (F. D. C. No. 34844. Sample Nos. 22218-L, 22549-L, 46228-L.)**

**INFORMATION FILED:** June 4, 1953, Southern District of Alabama, against Autry Greer & Sons, a partnership, Mobile, Ala., and E. Sumner Greer, J. Barton Greer, and Autry V. Greer, partners in the partnership.

**ALLEGED VIOLATION:** Between September 25, 1951, and October 23, 1952, while quantities of flour were being held for sale on the premises of Autry Greer & Sons, after shipment in interstate commerce, the defendants caused a number of bags of the flour to be placed in a building that was accessible to rodents and caused the flour to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 12, 1953. Pleas of guilty having been entered, the court fined each defendant \$75.

**20506. Adulteration of flour. U. S. v. 68 Bags, etc. (F. D. C. No. 35335. Sample Nos. 51964-L, 51965-L.)**

**LIBEL FILED:** June 25, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 5, 1953, from Buffalo, N. Y.

**PRODUCT:** 68 100-pound bags and 24 100-pound bags of flour at Newton, N. J., in possession of Fogelson Bros., Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and insects in the 68-bag lot and live insects in the 24-bag lot; and, Section 402 (a) (4), the article in the 68-bag lot had been held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 21, 1953. Default decree of condemnation and destruction.

**20507. Adulteration of soy flour. U. S. v. 82 Bags \* \* \*. (F. D. C. No. 35425. Sample No. 62717-L.)**

**LIBEL FILED:** July 9, 1953, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about November 20, 1952, from Decatur, Ill.

**PRODUCT:** 82 100-pound bags of flour at Memphis, Tenn., in the possession of the Vaiden Warehouse.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 17, 1953. The A. E. Staley Mfg. Co., Decatur, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Department of Health, Education, and Welfare.



## MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20508. Adulteration of brewers rice. U. S. v. L. A. Black Rice Milling Association, Inc. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 34851. Sample No. 54347-L.)**

**INFORMATION FILED:** January 20, 1953, Eastern District of Arkansas, against L. A. Black Rice Milling Association, Inc., De Witt, Ark.

**ALLEGED SHIPMENT:** On or about October 29, 1952, from the State of Arkansas into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 13, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$500.

**20509. Adulteration of brown rice. U. S. v. 16 Bags \* \* \*. (F. D. C. No. 35429. Sample No. 75853-L.)**

**LIBEL FILED:** July 22, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about October 30, 1952, from Sacramento, Calif.

**PRODUCT:** 16 100-pound bags of brown rice at Seattle, Wash., in the possession of the Commission Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20510. Adulteration of soy grits. U. S. v. 23 Bags \* \* \*. (F. D. C. No. 35428. Sample No. 62714-L.)**

**LIBEL FILED:** July 21, 1953, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about March 19, 1953, from Decatur, Ill.

**PRODUCT:** 23 100-pound bags of soy grits at Memphis, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live larvae. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 24, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use other than for human consumption. The product was converted into animal feed.

**20511. Adulteration of cracker meal. U. S. v. 200 Bags \* \* \*. (F. D. C. No. 35444. Sample No. 71088-L.)**

**LIBEL FILED:** July 30, 1953, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about June 26, 1953, by the Dinner Bell Food Co., from St. Louis, Mo.

**PRODUCT:** 200 100-pound bags of cracker meal at Austin, Ind.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 18, 1953. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution, for use as stock feed.

## FEEDS AND GRAINS

**20512. Alleged misbranding of animal feed. U. S. v. Gwinn Bros. & Co. Plea of not guilty. Tried to the court and jury. Directed verdict by the court of not guilty on count 2; jury verdict of not guilty on count 1. (F. D. C. No. 31085. Sample Nos. 39378-K, 39380-K.)**

**INDICTMENT RETURNED:** October 19, 1951, Southern District of West Virginia, against Gwinn Bros. & Co., a corporation, Huntington, W. Va.

**ALLEGED SHIPMENT:** On or about June 1 and September 13, 1950, from the State of West Virginia into the State of Kentucky.

**LABEL, IN PART:** (Tag) "Banner 16% Dairy Feed" and "Wheat Red Dog."

**NATURE OF CHARGE:** Count 1. Misbranding, Section 403 (a), certain label statements with respect to the protein, fat, and fiber content of the article designated as "Banner 16% Dairy Feed" were charged to be false and misleading in that the article contained less than the declared amounts of 16 percent protein and 3 percent fat and more than the declared amount of 15 percent fiber.

Count 2. Misbranding, Section 403 (a), certain label statements with respect to the protein and fat content of the article designated as "Wheat Red Dog" were charged to be false and misleading in that the article contained less than the declared amounts of 16 percent protein and 4 percent fat.

**DISPOSITION:** The defendant having entered a plea of not guilty, the case came on for trial before the court on October 26, 1953. At the conclusion of the testimony and pursuant to a motion by the defendant, the court directed the jury to return a verdict of not guilty on count 2. The charge in count 1 was submitted to the jury, and, after due deliberation, a verdict of not guilty was returned as to that count.

**20513. Adulteration of dairy feed. U. S. v. Marion F. Arnold (Arnold Elevator Mills). Plea of guilty. Fine of \$10, plus costs. (F. D. C. No. 35186. Sample No. 32847-L.)**

**INFORMATION FILED:** October 14, 1953, Western District of Missouri, against Marion F. Arnold, trading as the Arnold Elevator Mills, Butler, Mo.

**ALLEGED SHIPMENT:** On or about April 16, 1953, from the State of Missouri into the State of Kansas.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a food containing less than 18 percent of crude protein had been substituted in whole or in part for a food containing not less than 18 percent of crude protein, which the article was represented to be.

**DISPOSITION:** October 26, 1953. A plea of guilty having been entered, the court fined the defendant \$10, plus costs.



**FISH AND SHELLFISH**

**20514. Adulteration and misbranding of canned jack mackerel. U. S. v. 54 Cases \* \* \*. (F. D. C. No. 35274. Sample No. 59441-L.)**

**LIBEL FILED:** June 4, 1953, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about October 15, 21, and 23; and December 2, 1952, by the French Sardine Co., from Terminal Island, Calif.

**PRODUCT:** 54 cases, each containing 48 15-ounce cans, of jack mackerel at Belton, S. C.

**LABEL, IN PART:** (Can) "Eatwell Brand California Mackerel Water and Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the food.

**DISPOSITION:** July 8, 1953. The French Sardine Co., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20515. Adulteration and misbranding of canned jack mackerel. U. S. v. 34 Cartons \* \* \*. (F. D. C. Nos. 35085, 35086. Sample Nos. 18048-L, 18050-L.)**

**LIBEL FILED:** June 8, 1953, District of Hawaii.

**ALLEGED SHIPMENT:** On or about May 22, 1953, by Collins Bros., from Wilmington, Calif.

**PRODUCT:** 34 cartons, each containing 48 cans, of jack mackerel at Wailuku, T. H.

**LABEL, IN PART:** (Can) "Arch Rock California Mackerel Net Weight 15 Oz. Distributed By Oxnard Cannery Inc Monterey Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), another variety of fish, jack mackerel, had been substituted for California mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "California Mackerel" was false and misleading as applied to the article, which consisted of a variety of fish other than California mackerel.

**DISPOSITION:** On or about July 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

**20516. Adulteration of frozen red snappers. U. S. v. 1,482 Pounds \* \* \*. (F. D. C. No. 34638. Sample No. 50050-L.)**

**LIBEL FILED:** February 2, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about December 31, 1952, from New York, N. Y.

**PRODUCT:** 1,482 pounds of frozen red snappers in 12 boxes at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 3, 1953. T. J. Bodiford, Panama City, Fla., claimant, having withdrawn his claim and consented to a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20517. Adulteration of frozen red snappers. U. S. v. 1,223 Pounds \* \* \*.** (F. D. C. No. 34637. Sample No. 50051-L.)

**LIBEL FILED:** February 3, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 2, 1953, from New York, N. Y.

**PRODUCT:** 1,223 pounds of frozen red snappers in 13 boxes at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 3, 1953. T. J. Bodiford, Panama City, Fla., claimant, having withdrawn his claim and consented to a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20518. Adulteration of frozen shrimp. U. S. v. 211 Boxes \* \* \*.** (F. D. C. No. 35364. Sample No. 2577-L.)

**LIBEL FILED:** July 23, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about June 9, 1953, from New York, N. Y. This was a return shipment.

**PRODUCT:** 211 boxes of frozen shrimp at Jacksonville, Fla.

**LABEL, IN PART:** (Box) "Quick Frozen and Packed by Public Quick Freezing & Cold Storage Co. 'A Quality Service' Jacksonville, Fla. Net Wt. 5 Lbs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** August 31, 1953. Default decree of condemnation and destruction.

**20519. Misbranding of frozen shrimp. U. S. v. 51 Cartons \* \* \*.** (F. D. C. No. 35336. Sample No. 57590-L.)

**LIBEL FILED:** June 29, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 9, 1953, by the Fulton Fish Co., from Jacksonville, Fla., to Washington, D. C., from where it was reshipped to New York, N. Y.

**PRODUCT:** 51 cartons, each containing 10 packages, of frozen shrimp at New York, N. Y.

**LABEL, IN PART:** (Package) "Quick Frozen and Packed by Public Quick Freezing & Cold Storage Co. 'A Quality Service' Jacksonville, Fla. Net Wt. 5 Lbs."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)



**DISPOSITION:** July 15, 1953. The Fulton Fish Co., Jacksonville, Fla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20520. Misbranding of canned peaches. U. S. v. 389 Cases \* \* \*. (F. D. C. No. 35354. Sample No. 41162-L.)**

**LIBEL FILED:** July 16, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 27, 1953, by the Wapato Packing Co., from Wapato, Wash.

**PRODUCT:** 389 cases, each containing 24 cans, of peaches at New York, N. Y.

**LABEL, IN PART:** (Can) "Chatter Box Elberta Peaches Halved Yellow Freestone In Extra Heavy Syrup Home Style Contents 1 Lb. 14 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the definition and standard, the name of the optional packing medium present in the article since its label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as "Heavy Sirup" in the definition and standard.

**DISPOSITION:** August 19, 1953. The Wapato Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20521. Misbranding of canned peaches. U. S. v. 31 Cases \* \* \*. (F. D. C. No. 35424. Sample No. 42711-L.)**

**LIBEL FILED:** July 13, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about June 22, 1953, by the Regent Canfood Co., from San Francisco, Calif.

**PRODUCT:** 31 cases, each containing 24 1-pound cans, of peaches at Pueblo, Colo.

**LABEL, IN PART:** "Castle Crest Sliced Yellow Cling Peaches in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label of the article failed to bear, as required by the regulations, the name of the optional packing medium present in the article since its label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as "Light Sirup" in the regulations.

**DISPOSITION:** September 10, 1953. Safeway Stores, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## JAMS, JELLIES, AND PRESERVES

**20522. Adulteration and misbranding of peach jam, adulteration of grape jelly, and misbranding of plum jam. U. S. v. J. F. Garvey Co. and George W. Mechling. Pleas of nolo contendere. Fine of \$100, plus costs, against corporation and fine of \$70 against individual. (F. D. C. No. 35132. Sample Nos. 61142-L to 61144-L, incl.)**

**INFORMATION FILED:** August 19, 1953, District of Nebraska, against the J. F. Garvey Co., a corporation, Lincoln, Nebr., and George W. Mechling, president of the corporation.

**ALLEGED SHIPMENT:** On or about October 24, 1952, from the State of Nebraska into the State of Kansas.

**LABEL, IN PART:** "Garvey's Plum Jam [or "Peach Jam" or "Grape Jelly"]."

**NATURE OF CHARGE:** Peach jam and grape jelly. Adulteration, Section 402 (b) (2), products containing less than 65 percent of soluble solids had been substituted for peach jam and grape jelly.

Peach jam and plum jam. Misbranding, Section 403 (e) (2), the articles failed to bear labels containing an accurate statement of the quantity of the contents since the labels on the cans containing the articles bore the statement "8 $\frac{1}{4}$  lb. Net Weight" and the cans of the articles contained less than 8 $\frac{1}{4}$  pounds; and, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity for peach jam and plum jam since the soluble solids content of the articles was less than 65 percent, the minimum permitted by the definitions and standards.

**DISPOSITION:** October 9, 1953. The corporation having entered a plea of nolo contendere with respect to the counts relating to the adulteration of the peach jam and the misbranding of the plum jam and the individual having entered a plea of nolo contendere to the counts relating to the adulteration of the grape jelly and the misbranding of the peach jam, the court fined the corporation \$100, plus costs, and the individual \$70.

**20523. Adulteration of guava jelly. U. S. v. 144 Cases \* \* \*. (F. D. C. No. 35321. Sample No. 72345-L.)**

**LIBEL FILED:** June 19, 1953, Northern District of West Virginia.

**ALLEGED SHIPMENT:** On or about December 4, 1946, from New York, N. Y.

**PRODUCT:** 144 cases, each containing 48 15-ounce cans, of guava jelly at Buckhannon, W. Va. Examination showed that the article had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 22, 1953. Default decree of condemnation and destruction.

**20524. Misbranding of peach preserves. U. S. v. 12 Cases \* \* \*. (F. D. C. No. 34955. Sample No. 59627-L.)**

**LIBEL FILED:** May 13, 1953, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about September 12, 1952, by Groveland Products Co., Inc., from Miami, Fla.

**PRODUCT:** 12 cases, each containing 24 1-pound jars, of peach preserves at Eastman, Ga.



**LABEL, IN PART:** (Jar) "Packed For Stuckey's Eastman-Georgia Peach Preserves Net Weight."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for peach preserves since the article was made from a mixture composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of one of the sweetening ingredients specified in the definition and standard; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since its label bore no statement of the quantity of the contents.

**DISPOSITION:** July 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization for its use and not for sale.

### VEGETABLES

**20525. Misbranding of canned mushrooms. U. S. v. 46 Cases \* \* \*. (F. D. C. No. 35297. Sample No. 73301-L.)**

**LIBEL FILED:** June 8, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 29, 1953, by the Lescarbours Mushroom Co., from Kelton, Pa.

**PRODUCT:** 46 cases, each containing 24 cans, of mushrooms at Camden, N. J.

**LABEL, IN PART:** (Can) "Tartan fancy buttons Mushrooms."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label designation "fancy buttons Mushrooms" and the vignette depicting fancy button mushrooms were false and misleading as applied to the article, which was not fancy button mushrooms by reason of the mottled color and nonuniformity of size.

**DISPOSITION:** July 27, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

**20526. Adulteration of olives. U. S. v. 37 Cases \* \* \*. (F. D. C. No. 35347. Sample No. 59109-L.)**

**LIBEL FILED:** July 6, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about June 3, 1953, by the Kroger Co., from Cincinnati, Ohio.

**PRODUCT:** 37 cases, each containing 12 jars, of olives at East Point, Ga.

**LABEL, IN PART:** (Jar) "Embassy Drained Wt. 14 Oz. Salad Olives."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and insect-damaged olives.

**DISPOSITION:** August 31, 1953. Default decree of condemnation and destruction.

**20527. Adulteration of olives. U. S. v. 22 Cases \* \* \*. (F. D. C. No. 35330. Sample No. 59343-L.)**

**LIBEL FILED:** June 24, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about September 5 and 22, 1952, from Houston, Tex.

**PRODUCT:** 22 cases, each containing 4 1-gallon jars, of olives at Atlanta, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 31, 1953. Default decree of condemnation and destruction.

20528. Misbranding of canned peas. U. S. v. 750 Cases \* \* \*. (F. D. C. No. 35438. Sample No. 53662-L.)

LIBEL FILED: July 23, 1953, Northern District of Oklahoma.

ALLEGED SHIPMENT: On or about July 9, 1953, by the E. G. Reece Canning Co., from Waldron, Ind.

PRODUCT: 750 cases, each containing 24 1-pound cans, of peas at Tulsa, Okla.

LABEL, IN PART: (Can) "Raider \* \* \* Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas since the skins of more than 25 percent by count of the peas in the container were ruptured to a width of  $\frac{1}{16}$  inch or more and the alcohol-insoluble solids of the peas were more than 23.5 percent; and the label failed to bear a statement that the article fell below the standard.

DISPOSITION: August 7, 1953. The Griffin Grocery Co., Tulsa, Okla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

20529. Misbranding of canned peas. U. S. v. 743 Cases \* \* \*. (F. D. C. No. 35436. Sample No. 53662-L.)

LIBEL FILED: On or about July 30, 1953, Western District of Missouri.

ALLEGED SHIPMENT: On or about July 9, 1953, by the E. G. Reece Canning Co., from Waldron, Ind.

PRODUCT: 743 cases, each containing 24 cans, of peas at Joplin, Mo.

LABEL, IN PART: (Can) "Raider Contents 1 Pound Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas because of excessively ruptured peas and high alcohol-insoluble solids, and the label failed to bear a statement that the article fell below the standard.

DISPOSITION: August 26, 1953. The Griffin Grocery Co., Joplin, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

20530. Adulteration of green split peas. U. S. v. 156 Bags \* \* \*. (F. D. C. No. 34793. Sample No. 42481-L.)

LIBEL FILED: April 3, 1953, Northern District of California.

ALLEGED SHIPMENT: On or about July 12 and September 25, 1950, from Oakdale, Wash.

PRODUCT: 156 100-pound bags of green split peas at San Francisco, Calif., in the possession of the Farnsworth & Ruggles Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.



DISPOSITION: September 28, 1953. Default decree of condemnation and destruction.

**20531. Adulteration of chickpeas. U. S. v. 125 Bags \* \* \*. (F. D. C. No. 35339. Sample No. 50905-L.)**

LIBEL FILED: June 26, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about February 5, 1953, from Baltimore, Md.

PRODUCT: 125 bags, each containing 125 pounds, of chickpeas at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 24, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20532. Misbranding of canned Crowder peas. U. S. v. 148 Cases \* \* \*. (F. D. C. No. 35078. Sample Nos. 56455-L, 70951-L.)**

LIBEL FILED: June 18, 1953, Southern District of Indiana.

ALLEGED SHIPMENT: On or about September 23, 1952, by the Alma Canning Co., from Alma, Ark.

PRODUCT: 148 cases, each containing 24 cans, of Crowder peas at Evansville, Ind.

LABEL, IN PART: (Can) "Alma Brand Fresh Shelled Crowder Peas Contents 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

DISPOSITION: August 4, 1953. The Alma Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Food and Drug Administration.

**20533. Adulteration of canned spinach. U. S. v. 9 Cases \* \* \*. (F. D. C. No. 35323. Sample No. 57573-L.)**

LIBEL FILED: June 19, 1953, District of Columbia.

ALLEGED SHIPMENT: On or about February 19, 1953, by John H. Dulany & Son, Inc., from Fruitland, Md.

PRODUCT: 9 cases, each containing 24 1-pound, 2-ounce cans, of spinach at Washington, D. C.

LABEL, IN PART: (Can) "Dulany Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 14, 1953. Default decree of condemnation and destruction.

## TOMATOES AND TOMATO PRODUCTS

**20534. Adulteration of canned tomatoes. U. S. v. 392 Cases \* \* \*. (F. D. C. No. 34152. Sample No. 66683-L.)**

**LIBEL FILED:** November 24, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about September 9, 1952, by Thomas Roberts & Co., from Woodside, Del., to Philadelphia, Pa., and from there to Jamaica, N. Y., on or about October 28, 1952.

**PRODUCT:** 392 cases, each containing 24 cans, of tomatoes at Jamaica, N. Y.

**LABEL, IN PART:** (Can) "Pride Of The Farm Brand Contents 1 Lb. 3 Oz. Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** October 21, 1953. Default decree of condemnation and destruction.

**20535. Misbranding of canned tomatoes. U. S. v. 106 Cases, etc. (F. D. C. No. 34973. Sample No. 59269-L.)**

**LIBEL FILED:** April 24, 1953, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about November 20, 1952, by Thomas Roberts & Co., from Philadelphia, Pa.

**PRODUCT:** 255 cases, each containing 24 cans, of tomatoes at Morganton, N. C.

**LABEL, IN PART:** (Can) "Dill's 'Best' Tomatoes Contents 1 Lb."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "'Best' Tomatoes" was false and misleading as applied to tomatoes which were substandard in quality.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes with respect to the strength and redness of color of the tomatoes, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** June 5, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use.

**20536. Adulteration of tomato paste. U. S. v. 8,000 Cans \* \* \*. (F. D. C. No. 34970. Sample No. 73064-L.)**

**LIBEL FILED:** April 22, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** The product was imported from a foreign country on an unknown date.

**PRODUCT:** 8,000 cans of tomato paste at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Aureol Suritett Paradicsom \* \* \* High Concentrated Hungarian Tomato Paste Contents 14½ Oz. Net Hungarian Product."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 9, 1953. Default decree of condemnation and destruction.



**20537. Adulteration of tomato paste. U. S. v. 1,876 Cans \* \* \*. (F. D. C. No. 34971. Sample No. 73059-L.)**

**LIBEL FILED:** April 22, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** The product was imported from a foreign country on a date unknown.

**PRODUCT:** 1,876 cans of tomato paste at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Gschwindt Extrait De Tomates Produit Hon-  
goris \* \* \* Hungarian Tomato Paste \* \* \* Contents 14½ Oz. Net Total  
Solids 28-30 PC."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** July 9, 1953. Default decree of condemnation and destruction.

**20538. Adulteration of tomato puree. U. S. v. 498 Cases \* \* \*. (F. D. C. No. 34643. Sample No. 18505-L.)**

**LIBEL FILED:** February 2, 1953, District of Connecticut.

**ALLEGED SHIPMENT:** On or about December 28, 1952, by Campagnola Food Products, Inc., from Los Angeles, Calif.

**PRODUCT:** 498 cases, each containing 48 15-ounce cans, of tomato puree at Stamford, Conn.

**LABEL, IN PART:** (Can) "Sclafani Brand \* \* \* Tomato Puree."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** October 13, 1953. Default decree of condemnation and destruction. On October 15, 1953, the court entered an amended decree providing for the delivery of the product to a Federal institution, for use as hog feed.

## NUTS

**20539. Adulteration of shelled peanuts. U. S. v. 429 Bags \* \* \*. (F. D. C. No. 34803. Sample No. 41002-L.)**

**LIBEL FILED:** April 3, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about September 24, 1952, from Portales, N. Mex.

**PRODUCT:** 429 115-pound bags of shelled peanuts at Seattle, Wash., in the possession of the Olympic Warehouse & Cold Storage Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent urine, and rodent-gnawed peanuts; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 25, 1953. The Olympic Warehouse & Cold Storage Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of sorting and segregating, under the supervision of the Department of Health, Education, and Welfare. As a result of the seg-

regation operations, 1,499 pounds of the product were found unfit and were denatured for use as hog feed.

**20540. Adulteration of pecan meats. U. S. v. 105 Cartons \* \* \*. (F. D. C. No. 34946. Sample No. 45182-L.)**

**LIBEL FILED:** April 10, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about January 30, 1953, by the Gold Kist Pecan Growers, from Waycross, Ga.

**PRODUCT:** 105 30-pound cartons of pecan meats at Somerville, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of *E. coli*.

**DISPOSITION:** June 15, 1953. Default decree of condemnation and destruction.

## OILS AND FATS

**20541. Adulteration and misbranding of table and cooking oil. U. S. v. 11 Cases \* \* \* (and 4 other seizure actions). (F. D. C. Nos. 31211, 31212, 31232, 31324, 31597. Sample Nos. 23726-L, 23738-L, 23961-L, 23963-L, 23964-L, 25591-L, 25592-L.)**

**LIBELS FILED:** On or about June 21 and 28, July 2, and August 3, 1951, District of New Jersey, Eastern District of Pennsylvania, and District of Connecticut.

**ALLEGED SHIPMENT:** Between the approximate dates of December 13, 1950, and June 16, 1951, by Santuzza Oil Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 56 1-gallon cans, 63 cases, each containing 6 1-gallon cans, and 12 cases, each containing 12 1-quart cans, of table and cooking oil at Newark and Jersey City, N. J., Philadelphia, Pa., and Hartford, Conn.

**LABEL, IN PART:** (Can) "Santuzza Brand \* \* \* A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted from the article; and, Section 402 (b) (2), an artificially colored peanut oil in certain portions of the product and an artificially colored mixture of corn oil and peanut oil or cottonseed oil in other portions of the product, with little, if any, olive oil, in any portion, had been substituted for a blend of 80 percent corn and peanut oil and 20 percent pure olive oil.

Misbranding, Section 403 (a), the label statement "A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil" was false and misleading; and, Section 403 (k), the article contained artificial coloring and failed to bear labeling stating that fact.

**DISPOSITION:** Santuzza Oil Co., Inc., claimant, filed answers denying that the product was adulterated and misbranded. On December 3, 1951, the libel proceedings were, with the consent of the parties, consolidated for trial in the District of New Jersey pursuant to court order. On March 20, 1953, written interrogatories were served upon the claimant by the Government but were not answered or objected to within the period prescribed. The Government thereupon filed a motion for an order striking the claimant's pleadings and for a default decree of condemnation. On October 13, 1953, the court granted the motion and entered a decree of condemnation. The court ordered that the product be delivered to charitable institutions for their use but not for sale.



**20542. Adulteration and misbranding of olive oil. U. S. v. 11 Cases \* \* \*.**  
(F. D. C. No. 31210. Sample No. 23962-L.)

**LIBEL FILED:** June 21, 1951, District of New Jersey.

**ALLEGED SHIPMENT:** On or about January 18, 1951, by Mamma Mia Importing Co., Inc., from Brooklyn, N. Y.

**PRODUCT:** 11 cases, each containing 6 1-gallon cans, of olive oil at Newark, N. J. Analysis showed that the product was a mixture of olive oil and peanut oil.

**LABEL, IN PART:** (Can) "Mamma Mia Brand 100% Pure Olive Oil."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in part omitted from the article; and, Section 402 (b) (2), a mixture of peanut oil and olive oil had been substituted for pure olive oil.

Misbranding, Section 403 (a), the label statement "100% Pure Olive Oil" was false and misleading.

**DISPOSITION:** Mamma Mia Importing Co., Inc., claimant, filed an answer on July 27, 1951, denying that the product was adulterated or misbranded. On March 20, 1953, written interrogatories were served upon the claimant by the Government but were not answered or objected to within the period prescribed. The Government thereupon filed a motion for an order striking the claimant's pleadings and for a default decree of condemnation. On October 13, 1953, the court granted the motion and entered a decree of condemnation. The court ordered that the product be delivered to charitable institutions for their use but not for sale.

## OLEOMARGARINE

**20543. Adulteration and misbranding and the sale and offering for sale of colored oleomargarine. U. S. v. Morris Abramson (Murray Abramson and George Murray). Plea of guilty. Fine, \$500. Sentence of 1 year in jail suspended and defendant placed on probation for 1 year. (F. D. C. No. 33772. Sample Nos. 24221-L, 36848-L, 37279-L.)**

**INDICTMENT RETURNED:** March 24, 1953, District of New Jersey, against Morris Abramson, also known as Murray Abramson and George Murray, Newark, N. J.

**ALLEGED VIOLATION:** On or about May 1, 1952, the defendant received in interstate commerce, at Secaucus, N. J., a number of cartons of colored oleomargarine, or colored margarine, which was represented to be butter and which was adulterated; and on or about May 1, 1952, the defendant did, with intent to defraud and mislead, deliver for pay a number of such cartons containing the adulterated colored oleomargarine, or colored margarine, to a purchaser in Jersey City, N. J.

On or about April 3, 1952, the defendant did, within the State of New Jersey, with intent to defraud and mislead, sell and offer for sale, a number of cartons of colored oleomargarine, or colored margarine, which was in violation of the law, as indicated below.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), colored oleomargarine, or colored margarine, had been substituted for butter in the case of the article involved in the May 1 transaction.

The colored oleomargarine, or colored margarine, involved in the sale of April 3 was in violation of Section 407 (b) (3) (A), in that the word "oleomargarine" or "margarine" did not appear on the labels of the cartons con-

taining the colored oleomargarine, or colored margarine, in type or lettering at least as large as any other type or lettering on such labels since the labels did not bear the word "oleomargarine" or "margarine"; and, Section 407 (b) (3) (B), in that a full and accurate statement of all of the ingredients contained in the colored oleomargarine, or colored margarine, did not appear on the labels of the cartons containing the colored oleomargarine, or colored margarine, since such labels bore no statement of the ingredients contained in the colored oleomargarine, or colored margarine.

**DISPOSITION:** May 15, 1953. The defendant having entered a plea of guilty, the court fined him \$500 and sentenced him to 1 year in jail. The jail sentence was suspended, and the defendant was placed on probation for 1 year.

**20544. Sale of colored oleomargarine. U. S. v. Herman Lerich. Plea of guilty. Fine of \$1,000 and sentence of 1 year in jail; payment of fine and serving of jail sentence suspended and defendant placed on probation for 5 years. (F. D. C. No. 33737. Sample No. 38025-L.)**

**INFORMATION FILED:** January 12, 1953, Eastern District of New York, against Herman Lerich, Brooklyn, N. Y.

**ALLEGED SHIPMENT:** On or about February 28, 1952, at Brooklyn, N. Y., the defendant sold and offered for sale a number of cartons containing colored oleomargarine which was not properly identified as such.

**NATURE OF CHARGE:** Colored oleomargarine was sold in violation of Section 407 (b) (3) (A), in that the word "oleomargarine" or "margarine" did not appear on the labels of the cartons containing the colored oleomargarine in type or lettering as large as any other type or lettering on such labels since the labels did not bear the words "oleomargarine" or "margarine"; and, Section 407 (b) (3) (B), in that a full and accurate statement of all of the ingredients contained in the product did not appear on the labels of the cartons since the labels bore no statement of the ingredients contained in the product.

**DISPOSITION:** July 6, 1953. The defendant having entered a plea of guilty, the court fined him \$1,000 and sentenced him to 1 year in jail. The payment of the fine and the serving of the jail sentence were suspended, and the court placed the defendant on probation for 5 years.

## POULTRY

**20545. Adulteration of dressed poultry. U. S. v. Morris Singer. Plea of guilty; fine, \$500. (F. D. C. No. 34826. Sample Nos. 44228-L, 49545-L.)**

**INFORMATION FILED:** May 20, 1953, District of Maine, against Morris Singer, president of Maine Poultry Co., Inc., Bangor, Maine.

**ALLEGED SHIPMENT:** On or about July 25 and November 19, 1952, from the State of Maine into the States of Massachusetts and New York.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; and Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased poultry, and it was in part the product of an animal that had died otherwise than by slaughter.

**DISPOSITION:** June 17, 1953. The defendant having entered a plea of guilty, the court fined him \$500.



**20546. Adulteration of dressed poultry. U. S. v. 142 Pounds \* \* \*. (F. D. C. No. 34950. Sample No. 45313-L.)**

**LIBEL FILED:** April 13, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 2, 1953, by the Megunticook Poultry Co., from Morrill, Maine.

**PRODUCT:** 142 pounds of dressed poultry in 2 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of extensively bruised birds.

**DISPOSITION:** June 15, 1953. Default decree of condemnation and destruction.

**20547. Adulteration of dressed turkeys. U. S. v. 639 Pounds \* \* \*. (F. D. C. No. 34969. Sample No. 49562-L.)**

**LIBEL FILED:** April 24, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 8, 1953, by Beechwood Farms, from Valley View, Pa.

**PRODUCT:** 639 pounds of dressed turkeys in 9 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and it was otherwise unfit for food by reason of the presence of extensively bruised birds. Further adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 23, 1953. Beechwood Farms, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for salvage by trimming out the unwholesome parts from the wings and tails of each bird under the supervision of the Department of Health, Education, and Welfare. 39 pounds of the product were removed as unfit by the trimming operations.

## **SPICES, FLAVORS, AND SEASONING MATERIALS**

**20548. Adulteration of chilies. U. S. v. 199 Bags \* \* \*. (F. D. C. No. 35218. Sample Nos. 23303-L, 23306-L.)**

**LIBEL FILED:** May 4, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 24, 1952, from Anglo-Egyptian Sudan.

**PRODUCT:** 199 100-pound bags of chilies at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed chilies; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 25, 1953. William M. Allison & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of

the unfit portion, under the supervision of the Department of Health, Education, and Welfare. 3,304 pounds of the product were found unfit and were denatured.

**20549. Adulteration of oregano leaves. U. S. v. 34 Bags \* \* \*. (F. D. C. No. 34968. Sample No. 23305-L.)**

**LIBEL FILED:** April 21, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 6, 1952, from Tehran, Iran.

**PRODUCT:** 34 150-pound bags of chopped oregano leaves at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 19, 1953. William M. Allison & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reprocessing by removal of all contaminated portions of the product from each bag, under the supervision of the Department of Health, Education, and Welfare. 42 pounds of the product were found unfit and were denatured.

**20550. Adulteration and misbranding of black pepper. U. S. v. 12 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34893, 34894. Sample Nos. 51042-L to 51044-L, incl.)**

**LIBELS FILED:** March 16, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 4, 1953, by Unger & Sons, from Brooklyn, N. Y.

**PRODUCT:** 12 cases, each containing 2 dozen shakers, 8 cases, each containing 2 dozen shakers, and 15 cases, each containing 6 dozen shakers, of black pepper at Hoboken and Newark, N. J.

**LABEL, IN PART:** (Shaker) "East Indian Pure Spices Pure Black Pepper Contents 1 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), pepper with salt added had been substituted in whole or in part for black pepper, which the article purported to be; and, Section 402 (b) (4), salt had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (a), the designation "Pure Black Pepper" was false and misleading as applied to an article consisting of pepper with salt added.

**DISPOSITION:** May 19, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable organizations, provided that the labels on the products be destroyed and that examination by the Food and Drug Administration disclosed that the product was fit for human consumption.



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<sup>1</sup> (20512) Prosecution contested.

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<sup>1</sup> (20512) Prosecution contested.





# THE

# FEDERAL REGISTER

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## FEDERAL REGISTER



VOLUME 18

Washington, Tuesday, February 10, 1953

NUMBER 27

### TITLE 3—THE PRESIDENT

Executive Order 10434  
Act of Feb. 4, 1953

WHEREAS, the production of materials and the dissemination of information in the national security field are of such importance that it is necessary to provide for the protection of such materials and information;

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# U. S. Department of Health, Education, and Welfare

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20551-20600

### FOODS

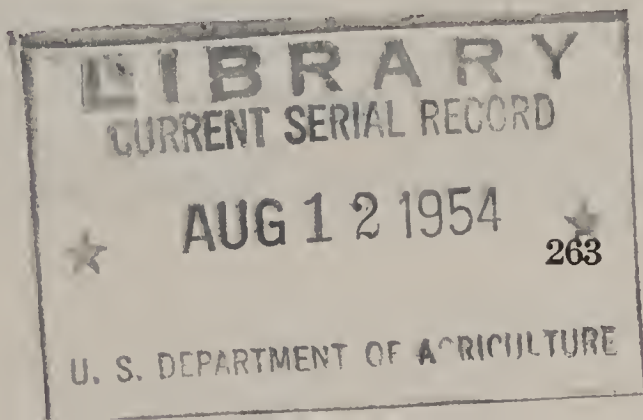
The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *July 22, 1954.*

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**CEREALS AND CEREAL PRODUCTS****CORNMEAL**

**20551. Adulteration of cornmeal. U. S. v. 611 Bags \* \* \*. (F. D. C. No. 35442. Sample No. 72352-L.)**

**LIBEL FILED:** On or about August 6, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about June 16, 1953, by the Service Mills Co., from Bristol, Va.

**PRODUCT:** 35 25-pound bags, 339 10-pound bags, and 237 5-pound bags of cornmeal at Bluefield, W. Va.

**LABEL, IN PART:** "Squirrel \* \* \* Bluefield, W. Va. Granulated White Corn Meal."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, rodent excreta, and rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** August 26, 1953. The Service Mills Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.

**20552. Adulteration of cornmeal. U. S. v. 40 Bags \* \* \*. (F. D. C. No. 35513. Sample No. 53590-L.)**

**LIBEL FILED:** September 24, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about July 17, 1953, from Memphis, Tenn.

**PRODUCT:** 40 25-pound bags of cornmeal at Helena, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**FLOUR**

**20553. Adulteration of flour. U. S. v. 7 Bags, etc. (F. D. C. No. 35345. Sample Nos. 59346-L, 59348-L, 59349-L.)**

**LIBEL FILED:** July 9, 1953, Eastern District of South Carolina.

**ALLEGED SHIPMENT:** On or about January 6 and March 18, 1953, from Durham, N. C.

**PRODUCT:** 13 100-pound bags and 9 50-pound bags of flour at Columbia, S. C., in the possession of Thomas & Howard Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** August 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed, or that it be destroyed.

**20554. Adulteration of flour. U. S. v. 26 Bags \* \* \*. (F. D. C. No. 35435. Sample No. 43424-L.)**

**LIBEL FILED:** July 24, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 22 and 24, May 5 and 8, and June 11 and 13, 1953, from Ogden, Utah.

**PRODUCT:** 26 50-pound bags of flour at San Jose, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 10, 1953. Default decree of condemnation and destruction.

**20555. Adulteration of oat flour, soybean flour, and granular flour. U. S. v. 255 Bags, etc. (F. D. C. No. 35365. Sample Nos. 47288-L to 47290-L, incl.)**

**LIBEL FILED:** July 23, 1953, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 6, 1953, from Decatur, Ill.

**PRODUCT:** 255 100-pound bags of oat flour, 20 50-pound bags of soybean flour, and 18 50-pound bags of granular flour at New Orleans, La.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 25, 1953. Default decree of condemnation and destruction.

**20556. Adulteration of soy flour. U. S. v. 88 Bags \* \* \*. (F. D. C. No. 35440. Sample No. 65435-L.)**

**LIBEL FILED:** July 25, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about April 22, 1952, from Decatur, Ill.

**PRODUCT:** 88 100-pound bags of soy flour at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 2, 1953. The A. E. Staley Mfg. Co., Decatur, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.

#### MISCELLANEOUS CEREALS

**20557. Adulteration of unpopped popcorn. U. S. v. 16 Cases \* \* \*. (F. D. C. No. 35361. Sample No. 45470-L.)**

**LIBEL FILED:** July 16, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 24, 1953, by the Kentucky Popcorn Association, from New Haven, Ky.

PRODUCT: 16 cases, each containing 24 10-ounce cans, of unpopped popcorn at Lawrence, Mass.

LABEL, IN PART: (Can) "Delmonico Pop Yellow Hybrid Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent-gnawed kernels; and, Section 402 (a) (4), it was prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 25, 1953. Default decree of condemnation and destruction.

20558. Adulteration of rice. U. S. v. 10 Bags \* \* \*. (F. D. C. No. 35433. Sample No. 43425-L.)

LIBEL FILED: July 24, 1953, Northern District of California.

ALLEGED SHIPMENT: On or about September 3, 1952, from Lake Charles, La.

PRODUCT: 10 100-pound bags of rice at San Jose, Calif., in the possession of Morella Wholesale Grocer.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 10, 1953. Default decree of condemnation and destruction.

## EGGS

20559. Adulteration of frozen eggs. U. S. v. 2 Cans \* \* \*. (F. D. C. No. 35427. Sample No. 61398-L.)

LIBEL FILED: July 10, 1953, Southern District of Iowa.

ALLEGED SHIPMENT: On or about June 24, 1953, by Feaster Dairy Products, from Omaha, Nebr.

PRODUCT: 2 30-pound cans of frozen eggs at Clarinda, Iowa.

LABEL, IN PART: "Frozen Whites and Yolks Mixed Packed By Wayne Poultry & Egg Co., Wayne, Nebr."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: August 11, 1953. Default decree of condemnation and destruction.

20560. Adulteration of frozen egg whites. U. S. v. 1,000 Cans \* \* \* (and 1 other seizure action). (F. D. C. Nos. 35437, 35439. Sample Nos. 65004-L, 65005-L.)

LIBELS FILED: July 22 and 24, 1953, Southern District of Iowa.

ALLEGED SHIPMENT: On or about June 2 and 3, 1953, by Miles Friedman, Inc., from Chicago, Ill.

PRODUCT: 2,000 30-pound cans of frozen egg whites at Des Moines, Iowa.



**LABEL, IN PART:** "Schneider Bros. Inc. Fancy Egg Whites \* \* \* Chicago, Illinois."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** August 13, 1953. Schneider Bros., Inc., claimant, having consented to the entry of a decree and the libel proceedings having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. 78 cans of the product were found unfit and were destroyed.

## FISH AND SHELLFISH

**20561. Adulteration and misbranding of canned mackerel. U. S. v. 19 Cases \* \* \* (and 3 other seizure actions). (F. D. C. Nos. 35308 to 35311, incl. Sample Nos. 59743-L to 59746-L, incl.)**

**LIBELS FILED:** June 11 and 12, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about November 24, 1952, by French Sardine Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 155 cases, each containing 48 15-ounce cans, of mackerel at Tallapoosa and Griffin, Ga.

**LABEL, IN PART:** (Can) "Eatwell Brand California Mackerel."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** August 20, 1953. Star Kist Foods, Inc., Terminal Island, Calif., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20562. Adulteration and misbranding of canned salmon. U. S. v. 26 Cases \* \* \*. (F. D. C. No. 35430. Sample No. 59534-L.)**

**LIBEL FILED:** July 15, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about March 13, 1953, by Hamlin-Halferty Seafoods, from Seattle, Wash.

**PRODUCT:** 26 cases, each containing 48 1-pound cans, of salmon at Quitman, Ga.

**LABEL, IN PART:** (Can) "Ocean Tang Brand Pink Salmon \* \* \* Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), chum salmon had been substituted in whole or in part for pink salmon, which the article was represented to be.

Misbranding, Section 403 (a), the label designation "Pink Salmon" was false and misleading as applied to chum salmon.

**DISPOSITION:** August 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use.

**20563. Adulteration of oysters. U. S. v. 2 Barrels, etc. (F. D. C. No. 35481. Sample Nos. 57858-L, 57859-L.)**

**LIBEL FILED:** September 15, 1953, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about September 8, 1953, by Seacoast Oyster Co., Inc., from Baltimore, Md.

**PRODUCT:** 2 barrels containing 304 1-pint cans and 1 barrel containing 64 ½-pint cans of oysters at Greensburg, Ind.

**LABEL, IN PART:** "Pride of Chesapeake Bay Oysters Lovely Lady."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** September 24, 1953. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution.

**20564. Adulteration of canned shrimp. U. S. v. 498 Cases \* \* \*. (F. D. C. No. 35353. Sample No. 47632-L.)**

**LIBEL FILED:** July 9, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 2, 1953, by Humphreys Seafood Co., from New Orleans, La.

**PRODUCT:** 498 cases, each containing 24 cans, of shrimp at Boston, Mass.

**LABEL, IN PART:** (Can) "Delta-Main Brand Small Wet Pack Shrimp Drained Weight 5 Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** September 14, 1953. Larose Canning Co., Inc., Houma, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 221 cases, plus 17 cans, of the product were found unfit and were destroyed.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20565. Adulteration of canned blueberries. U. S. v. 34 Cases \* \* \*. (F. D. C. No. 35426. Sample No. 19704-L.)**

**LIBEL FILED:** On or about July 9, 1953, District of North Dakota.

**ALLEGED SHIPMENT:** On or about September 7, 1950, and January 1, 1951, from North Sedgwick, Maine.

**PRODUCT:** 34 cases, each containing 24 14-ounce cans, of blueberries at Minot, N. Dak. Examination showed that the product had undergone chemical decomposition.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 8, 1953. Default decree of condemnation and destruction.

**20566. Misbranding of canned peaches. U. S. v. 455 Cases \* \* \*. (F. D. C. No. 35468. Sample No. 70531-L.)**

**LIBEL FILED:** August 27, 1953, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about July 8, 1953, by the Pomona Products Co., from Griffin, Ga.

**PRODUCT:** 455 cases, each containing 24 cans, of peaches at Nashville, Tenn.

**LABEL, IN PART:** (Can) "Sunshine Brand Halves Yellow Free Peaches In Heavy Syrup Contents 1 Lb. 13 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the label of the article failed to bear, as required by the definition and standard of identity for canned peaches, the name of the optional packing medium present in the article since its label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as "Light Sirup" in the definition and standard.

**DISPOSITION:** September 21, 1953. The Pomona Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### DRIED FRUIT

**20567. Adulteration of dried pears and mixed dried fruits. U. S. v. Rosenberg Bros. & Co., Inc. Plea of nolo contendere. Fine, \$6,000. (F. D. C. No. 35100. Sample Nos. 5093-L, 7534-L, 27278-L, 27281-L, 27282-L, 33340-L.)**

**INFORMATION FILED:** August 5, 1953, Northern District of California, against Rosenberg Bros. & Co., Inc., San Francisco, Calif.

**ALLEGED SHIPMENT:** Between February 7 and April 9, 1952, from the State of California into the States of New York, Massachusetts, Wisconsin, and Maryland, and the Territory of Hawaii.

**LABEL, IN PART:** "Ensign Brand California Dried Extra Fancy Lake County Pears," "Sugaripe Brand California Dried Fruits Large Pears," "I G A Brand California Dried Fruits Fancy Mixed Fruits Contains Prunes, Peaches, Pears and Apricots \* \* \* Packed For Independent Grocers Alliance Distributing Co. Chicago, Ill.," "Iris Brand California Dried Choice Halved Pears," "Sugaripe Fancy Mixed Fruit California Dried Fruit \* \* \* Contains Prunes, Peaches, Apricots and Pears," and "Sugaripe Brand California Dried Fruits Medium Pears."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of rodent excreta, rodent hairs, rodent hair fragments, insects, insect fragments, and insect excreta; and, Section 402 (a) (4), the articles had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 14, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$1,000 on each count, a total fine of \$6,000.

20568. Adulteration of dried apples. U. S. v. 83 Boxes \* \* \*. (F. D. C. No. 35464. Sample No. 65471-L.)

LIBEL FILED: August 25, 1953, District of North Dakota.

ALLEGED SHIPMENT: From San Francisco, Calif., on an unknown date.

PRODUCT: 83 50-pound boxes of dried apples at Fargo, N. Dak., in the possession of the Fargo Food & Equipment Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent and insect excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 14, 1953. The consignee of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

### VEGETABLES AND VEGETABLE PRODUCTS

20569. Adulteration and misbranding of canned peas. U. S. v. 17 Cases \* \* \*. (F. D. C. No. 35469. Sample No. 47463-L.)

LIBEL FILED: August 28, 1953, Northern District of Alabama.

ALLEGED SHIPMENT: On or about July 15, 1953, by the Athens Canning Co., from Athens, Ga.

PRODUCT: 17 cases, each containing 24 cans, of peas at Birmingham, Ala.

LABEL, IN PART: (Can) "Homefolk Brand Green Fresh Shelled Purple Hull Peas \* \* \* Contents 15 Oz. Avoir."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of purple hull peas and dry soaked black-eyed peas had been substituted for fresh shelled purple hull peas.

Misbranding, Section 403 (a), the label statement "Fresh Shelled Purple Hull Peas" was false and misleading as applied to a mixture of purple hull peas and dry soaked black-eyed peas.

DISPOSITION: September 29, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use.

20570. Adulteration of dried yellow split peas and dried black-eyed peas. U. S. v. 17 Bags, etc. (F. D. C. No. 35387. Sample Nos. 2586-L, 2587-L.)

LIBEL FILED: August 13, 1953, Southern District of Florida.

ALLEGED SHIPMENT: On or about November 25, 1950, and January 12, 1953, from Crows Landing, Calif., and Kimberly, Idaho.

PRODUCT: 17 100-pound bags of dried yellow split peas and 16 100-pound bags of dried black-eyed peas at Jacksonville, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** September 4, 1953. Default decree of condemnation. The court ordered that the articles be delivered to a Federal institution, for use as animal feed.

**20571. Misbranding of carrot juice and celery juice. U. S. v. 21 Cases, etc.**  
(F. D. C. No. 35281. Sample Nos. 18633-L, 18634-L.)

**LIBEL FILED:** June 10, 1953, District of Arizona.

**ALLEGED SHIPMENT:** On or about April 20 and May 13, 1953, by the Hain Pure Food Co., from Los Angeles, Calif.

**PRODUCT:** 21 cases, each containing 24 12-ounce cans, of carrot juice, and 10 cases, each containing 24 12-ounce cans, of celery juice at Phoenix, Ariz.

**LABEL, IN PART:** (Can) "Hain Pure Carrot [or "Celery"] Juice."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statement "Processed In Accordance With Regulations of U. S. Department of Agriculture" appearing on the labels of the articles was false and misleading. This statement represented and suggested that the articles were prepared and processed under the supervision of the U. S. Department of Agriculture Inspection Service, or under regulations of that Department. The articles were not prepared or processed under the supervision of the U. S. Department of Agriculture Inspection Service, nor in accordance with regulations of that Department since it had issued no such regulations.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the products be delivered to charitable institutions.

### TOMATOES AND TOMATO PRODUCTS

**20572. Adulteration of canned tomatoes. U. S. v. 157 Cases \* \* \*. (F. D. C. No. 35299. Sample No. 57385-L.)**

**LIBEL FILED:** On or about June 8, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about April 6, 1953, by Hungerford Packing Co., Inc., from Hungerford, Pa.

**PRODUCT:** 157 cases, each containing 24 cans, of tomatoes at Baltimore, Md.

**LABEL, IN PART:** (Can) "Fre-Mar Brand Contents 1 Lb. 3 Oz. Hand Packed Whole Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material, and of a filthy substance by reason of the presence of fly eggs and maggots.

**DISPOSITION:** July 6, 1953. Default decree of condemnation and destruction.

**20573. Adulteration of tomato juice. U. S. v. 2,029 Cases \* \* \*. (F. D. C. No. 35060. Sample No. 62913-L.)**

**LIBEL FILED:** May 22, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about February 19 and March 31, 1953, by the G. S. Suppiger Co., from Shirley, Ind.

**PRODUCT:** 2,029 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Desloge, Mo.

**LABEL, IN PART:** (Can) "Brooks Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 11, 1953. The G. S. Suppiger Co., Collinsville, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 945 cases of the product were found unfit and were destroyed.

**20574. Adulteration of tomato juice. U. S. v. 309 Cases \* \* \*. (F. D. C. No. 35342. Sample No. 58239-L.)**

**LIBEL FILED:** July 2, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about October 3, 1949, by the Omega Canning Co., from Atlanta, Ind.

**PRODUCT:** 309 cases, each containing 24 cans, of tomato juice at Chicago, Ill.

**LABEL, IN PART:** (Can) "CCC Brand Tomato Juice Contents 1 Pt. 2 Fl. Oz. Distributed by Acme Food Products Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 26, 1953. Default decree of condemnation and destruction.

## NUTS

**20575. Adulteration of pecan meats. U. S. v. Shawnee Warehouse & Cold Storage Co., Inc. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 35146. Sample Nos. 14943-L, 14995-L, 29943-L, 33506-L.)**

**INFORMATION FILED:** August 26, 1953, Western District of Oklahoma, against Shawnee Warehouse & Cold Storage Co., Inc., Shawnee, Okla.

**ALLEGED SHIPMENT:** On or about August 4, 1952, and January 16 and February 28, 1953, from the State of Oklahoma into the States of Kansas, Washington, and Illinois.

**LABEL, IN PART:** "Midget [or "small"] Pieces Select Shelled Pecans."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** October 26, 1953. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$300.

**20576. Adulteration of unshelled almonds, filberts, walnuts, and peanuts. U. S. v. 4 Bags, etc. (F. D. C. No. 35391. Sample Nos. 65439-L to 65442-L, incl.)**

**LIBEL FILED:** August 17, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about October 18, 21, and 22, and December 22, 1952, from Sacramento and Los Angeles, Calif., Dundee, Oreg., and St. Paul, Minn.

**PRODUCT:** 4 100-pound bags of unshelled almonds, 3 100-pound bags of unshelled filberts, 1 100-pound bag of unshelled walnuts, and 1 95-pound bag of unshelled peanuts at Rapid City, S. Dak., in the possession of the Nash-Finch Co.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 28, 1953. Default decree of condemnation and destruction.

## POULTRY

**20577. Adulteration of dressed poultry. U. S. v. 1,800 Pounds \* \* \*. (F. D. C. No. 35307. Sample No. 50531-L.)**

**LIBEL FILED:** June 12, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 28, 1953, by the Rosen Poultry Co., from Willimantic, Conn.

**PRODUCT:** 1,800 pounds of dressed poultry in 24 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** July 8, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20578. Adulteration of dressed poultry. U. S. v. 600 Pounds \* \* \*. (F. D. C. No. 35266. Sample No. 57382-L.)**

**LIBEL FILED:** May 22, 1953, Eastern District of Virginia.

**ALLEGED SHIPMENT:** On or about May 13, 1953, by the Sun Valley Poultry Corp., from Berlin, Md.

**PRODUCT:** 600 pounds of dressed poultry in 3 barrels at Norfolk, Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** July 22, 1953. Default decree of condemnation and destruction.

**20579. Adulteration of dressed poultry. U. S. v. 540 Pounds \* \* \*. (F. D. C. No. 35355. Sample No. 45327-L.)**

**LIBEL FILED:** July 13, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 9, 1953, by the Vermont Poultry Outlet, from South Royalton, Vt.

**PRODUCT:** 540 pounds of dressed poultry in 8 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and which were otherwise unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** August 25, 1953. Default decree of condemnation and destruction.

**20580. Adulteration of dressed poultry. U. S. v. 370 Pounds \* \* \*. (F. D. C. No. 35333. Sample No. 50533-L.)**

**LIBEL FILED:** June 25, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 11, 1953, by the Acme Poultry Corp., from Berlin, Md.

**PRODUCT:** 370 pounds of dressed poultry in 5 crates at New York, N. Y.

**LABEL, IN PART:** (Crate) "Acme Brand Fresh Killed Ice Packed Poultry."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** August 18, 1953. The Acme Poultry Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for evisceration under the supervision of the Department of Health, Education, and Welfare, so as to remove those birds which were diseased and the filth-contaminated portions of the other birds. 18 pounds of the product were removed as unfit and were destroyed.

**20581. Adulteration of dressed poultry. U. S. v. 222 Pounds \* \* \*. (F. D. C. No. 35271. Sample No. 49570-L.)**

**LIBEL FILED:** May 26, 1953. Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 11, 1953, by the Vineland Live & Dressed Poultry Co., from Norma, N. J.

**PRODUCT:** 222 pounds of dressed poultry in 3 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 11, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20582. Adulteration of dressed poultry. U. S. v. 154 Pounds \* \* \*. (F. D. C. No. 35351. Sample No. 50534-L.)**

**LIBEL FILED:** July 15, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about June 23, 1953, by the Vineland Live & Dressed Poultry Co., from Norma, N. J.

**PRODUCT:** 154 pounds of dressed poultry in 3 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** August 6, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20583. Adulteration of canned boned turkey and gravy. U. S. v. 64 Cases \* \* \*. (F. D. C. No. 35328. Sample No. 73417-L.)**

**LIBEL FILED:** June 22, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about May 8, 1953, from Lawrence, Ind.

**PRODUCT:** 64 cases, each containing 12 1-pound, 14-ounce cans, of boned turkey and gravy at Philadelphia, Pa.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 27, 1953. Default decree of condemnation and destruction.

## **SPICES, FLAVORS, AND SEASONING MATERIALS**

**20584. Adulteration of caraway seed. U. S. v. 21 Bags \* \* \*. (F. D. C. No. 35508. Sample No. 42801-L.)**

**LIBEL FILED:** September 25, 1953, Northern District of California.

**ALLEGED SHIPMENT:** The article was imported into the United States on or about January 16, 1953.

**PRODUCT:** 21 100-pound bags of caraway seed at San Francisco, Calif., in the possession of the DePue Warehouse Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 6, 1953. Adolph Schoenfeld, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was reconditioned, with the result that 60 pounds was found unfit and was destroyed.

**20585. Adulteration of chilies. U. S. v. 50 Bags \* \* \*. (F. D. C. No. 35241. Sample No. 23297-L.)**

**LIBEL FILED:** May 15, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** From a foreign country, prior to April 23, 1953.

**PRODUCT:** 50 80-pound bags of chilies at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 26, 1953. The Farmers' Chemical Co., Kalamazoo, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was segregated and cleaned, with the result that 396 pounds were found unfit and were denatured.

**20586. Adulteration of cumin seed. U. S. v. 40 Bags \* \* \*. (F. D. C. No. 35405. Sample No. 49980-L.)**

**LIBEL FILED:** August 28, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 23, 1953, from a foreign country.

**PRODUCT:** 40 bags, each containing 135 pounds, of cumin seed at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 5, 1953. Gillespie & Co. of N. Y., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning so as to eliminate and destroy the unfit portion, under the supervision of the Food and Drug Administration. As a result of the reconditioning operations, 102 pounds of the product were found unfit and were denatured.

**20587. Adulteration of mustard seed. U. S. v. 334 Bags \* \* \*. (F. D. C. No. 35471. Sample No. 74253-L.)**

**LIBEL FILED:** September 1, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about July 23, 1953, by Chili Products, Inc., from Sunburst, Mont.

**PRODUCT:** 334 90-pound bags of mustard seed at Long Beach, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

**DISPOSITION:** October 19, 1953. E. L. McDonnell & Co., Spokane, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 4,088 $\frac{1}{4}$  pounds of the product were found unfit and were destroyed.

**20588. Adulteration of yellow mustard seed. U. S. v. 15 Bags \* \* \*. (F. D. C. No. 35298. Sample No. 50892-L.)**

**LIBEL FILED:** June 5, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 26, 1946, from New York, N. Y.

**PRODUCT:** 15 100-pound bags of yellow mustard seed at Black Tom, Jersey City, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 4, 1953. Default decree of condemnation and destruction.

**20589. Adulteration of paprika. U. S. v. 65 Bags \* \* \*. (F. D. C. No. 35463. Sample No. 42794-L.)**

**LIBEL FILED:** August 26, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about January 29, 1953, from a foreign country.

**PRODUCT:** 65 110-pound bags of paprika at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** September 17, 1953. Ziel & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was reconditioned, with the result that 70 pounds were found unfit and were destroyed.

**20590. Adulteration of paprika chili pepper. U. S. v. 25 Drums \* \* \*. (F. D. C. No. 35091. Sample No. 18698-L.)**

**LIBEL FILED:** June 29, 1953, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about June 1, 1953, by Gentry, Inc., from Los Angeles, Calif.

**PRODUCT:** 25 drums of paprika chili pepper at Indianapolis, Ind.

**LABEL, IN PART:** "Net 200 Gentry Regal California Paprika Chili Pepper."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs.

**DISPOSITION:** October 16, 1953. Default decree of forfeiture and destruction.

## **VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE**

**20591. Adulteration and misbranding of Ethonatal Caplets. U. S. v. Preston Laboratories, Inc., Jules Press, and Arthur L. Lampert. Pleas of guilty. Fine of \$300 against corporation and \$100 against each individual, plus costs. (F. D. C. No. 34867. Sample Nos. 2414-L, 2415-L.)**

**INFORMATION FILED:** July 29, 1953, Northern District of Illinois, against Preston Laboratories, Inc., Chicago, Ill., Jules Press, president, and Arthur L. Lampert, treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about May 21 and July 3, 1952, from the State of Illinois into the State of Georgia.

**LABEL, IN PART:** "Ethex Ethonatal Caplets Vitamins—Minerals \* \* \* Made Expressly for Central Ethex, Inc."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted from the article.

Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading. The statements represented and suggested that each caplet of the article contained 400 U. S. P. units of vitamin D and that 3 caplets would supply 300 percent of the adult minimum daily requirement for vitamin D. Each caplet of the article contained less than 400 U. S. P. units of vitamin D, and 3 caplets would supply less than 300 percent of the adult minimum daily requirement for vitamin D.

**DISPOSITION:** September 21, 1953. The defendants having entered pleas of guilty, the court fined the corporation \$300 and each individual \$100, plus costs.

**20592. Adulteration and misbranding of vitamin tablets. U. S. v. 73,730 Tablets \* \* \*. (F. D. C. No. 35305. Sample No. 59161-L.)**

**LIBEL FILED:** On or about June 26, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** During or about May 1952, from Burbank, Calif., to Chicago, Ill., and from there to Tampa, Fla., during July 1952.

**PRODUCT:** 73,730 vitamin tablets at Tampa, Fla. Examination showed that the tablets contained 51 percent of the declared amount of vitamin B<sub>1</sub>.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Twelve Tablets containing the following \* \* \* Vitamin B-1 \* \* \* 25 Milligrams" was false and misleading as applied to the article, which contained less than the stated amount of vitamin B<sub>1</sub> per 12 tablets.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 23, 1953. Default decree of condemnation and destruction.

**20593. Adulteration and misbranding of B-Amino Complex Tablets. U. S. v. 17 Bottles \* \* \*. (F. D. C. No. 34930. Sample No. 17248-L.)**

**LIBEL FILED:** April 2, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about January 20, 1953, by the Unitone Corp., from New York, N. Y.

**PRODUCT:** 17 100-tablet bottles of B-Amino Complex tablets at Los Angeles, Calif. Analysis showed that 6 tablets of the article would provide 5.8 milligrams of iron.

**LABEL, IN PART:** (Bottle) "100 Tablets B-Amino-Complex A Brand of amino acids, coenzymes, vitamins and minerals Daily dose of 6 tablets contains: Vitamins Vitamin B<sub>1</sub> (Thiamine Hydrochloride) 18.0 mg. Vitamin B<sub>2</sub> (Riboflavin) 27.0 mg. \* \* \* Vitamin B<sub>6</sub> (Pyridoxine Hydrochloride)\* 3.0 mg. \* \* \* Di And Tri-Valent Minerals Iron (Ferric Citro Pyrophosphate Soluble) 28.8 mg. Copper (Copper Sulfate)\* 2.1 mg. Magnesium (Magnesium Sulfate)\* 5.9 mg. \* \* \*

"The need for this vitamin or mineral in human nutrition has not been established."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, iron, had been in part omitted from the article.

Misbranding, Section 403 (a), the statement on the label that the need for vitamin B<sub>6</sub> (pyridoxine hydrochloride), copper, and magnesium in human nutrition has not been established was false and misleading since it was contrary to fact; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by use of its vitamin and mineral content, and its label failed to bear such information concerning its vitamin and mineral properties as has been prescribed by regulations as necessary in order fully to inform purchasers as to its value for such uses since the label of the article failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements for vitamin B<sub>1</sub> (thiamine hydrochloride), vitamin B<sub>2</sub> (riboflavin), and iron supplied by the article when consumed in a specified quantity during a period of one day.

**DISPOSITION:** April 24, 1953. Default decree of condemnation and destruction.

**20594. Adulteration and misbranding of thiamine hydrochloride tablets. U. S. v. 11 Cases \* \* \*. (F. D. C. No. 35313. Sample No. 50889-L.)**

**LIBEL FILED:** June 17, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about May 23, 1952, from a foreign country.



**PRODUCT:** 11 cases, each containing 100 500-tablet bottles, of thiamine hydrochloride tablets at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, thiamine hydrochloride (vitamin B<sub>1</sub>), had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements "Thiamine Hydrochloride 1.0 mg.," "Thiamine Hydrochloride \* \* \* 1 Mgm. 1/60 grain," and "1 Tablet Contains 1 mg. Crystalline Aneurin" were false and misleading as applied to the article, which contained less than the declared amount of thiamine hydrochloride.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 8, 1953. Default decree of condemnation and destruction.

**20595. Misbranding of Taboyster tablets. U. S. v. 21 Bottles \* \* \*. (F. D. C. No. 35290. Sample No. 57067-L.)**

**LIBEL FILED:** June 4, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 17 and 19, 1953, by the Hollister Pharmacal Co., from Chicago, Ill.

**PRODUCT:** 21 bottles of Taboyster tablets at Toledo, Ohio.

**LABEL, IN PART:** (Bottle) "Hollister's Taboyster Tablets Contents 48 Tablets \* \* \* Ingredients Tricalcium Phosphate Sodium Chloride Potassium Chloride Magnesium Phosphate Ferrous Sulfate Manganese Glycerophosphate Potassium Iodide Cupric Sulfate Crystalline Vit. A Acetate (Vitamin A) Thiamin HCL (Vitamin B-1) Riboflavin (Vitamin B-2 (G)) Ascorbic Acid (Vitamin C) In especially prepared base containing vegetable protein and vegetable oil."

**NATURE OF CHARGE:** Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the quantities of vitamins and minerals supplied by the article when consumed in a specified quantity during a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4164.

**DISPOSITION:** August 6, 1953. Default decree of condemnation and destruction.

## MISCELLANEOUS FOODS

**20596. Adulteration of fire-damaged foods. U. S. v. 90 Cartons \* \* \*. (F. D. C. No. 35326. Sample Nos. 45325-L, 45326-L.)**

**LIBEL FILED:** June 22, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 28 and 29, 1953 by the Triangle Sales Corp., from Jersey City, N. J.

**PRODUCT:** 90 cartons of fire-damaged foods at West Lynn, Mass. Each carton was filled with an assortment of jarred and bottled foods salvaged from a fire-damaged supermarket.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of dirty

food products, and they were otherwise unfit for food by reason of the presence of smoke-damaged food products.

**DISPOSITION:** July 21, 1953. The Triangle Sales Corp., West Lynn, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit food and for relabeling of the food which was fit for human consumption. 28 cartons of the food were found unfit and were destroyed.

**20597. Adulteration and misbranding of Erhaltungssalz (meat preservative).**  
**U. S. v. Morris Laboratory Co., Inc., and Robert W. Morris.** Pleas of guilty. Fine of \$1,000 against defendants jointly. Individual defendant also sentenced to 1 year in jail, which sentence was suspended, and placed on probation for 5 years. (F. D. C. No. 34859. Sample Nos. 7847-L, 7848-L, 39490-L.)

**INFORMATION FILED:** June 11, 1953, District of New Jersey, against Morris Laboratory Co., Inc., Guttenberg, N. J., and Robert W. Morris, president of the corporation.

**ALLEGED SHIPMENT:** On or about November 28 and December 30, 1952, and January 13, 1953, from the State of New Jersey into the States of Pennsylvania and Maryland.

**LABEL, IN PART:** "Morris Erhaltungssalz Use: Not more than 2 lbs. to each 100 lbs. of meat. Salt should be cut down to the extent of Erhaltungssalz used. Prevents discoloration due to oxidation Contains: Sodium chloride, carbonates and other salts, cane sugar and milk solids."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, thiourea, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

**DISPOSITION:** October 2, 1953. Pleas of guilty having been entered, the court fined the defendants jointly \$1,000. The court also sentenced the individual to one year in jail, which sentence was suspended, and placed this defendant on probation for 5 years.

**20598. Adulteration and misbranding of Erhaltungssalz (meat preservative).**  
**U. S. v. 1 Drum, etc.** (F. D. C. No. 34584. Sample Nos. 7847-L, 7848-L.)

**LIBEL FILED:** February 6, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about November 28 and December 30, 1952, by Morris Laboratory Co., Inc., from Guttenberg, N. J.

**PRODUCT:** 1 drum containing 213 pounds and 1 drum containing 40 pounds of Erhaltungssalz (meat preservative) at Newry, Pa.

**LABEL, IN PART:** "Morris Erhaltungssalz \* \* \* Prevents discoloration due to oxidation. Contains: Sodium Chloride, Carbonates and other Salts, Cane Sugar and Milk Solids."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, thiourea, which is unsafe



within the meaning of the law since it is a substance not required in the production of the product and can be avoided by good manufacturing practice.

Misbranding, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: March 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to the county for de-icing pavements, etc.

20599. Misbranding of Whitex Special antioxidant. U. S. v. 21 Cases \* \* \*. (F. D. C. No. 34740. Sample Nos. 20552-L, 20563-L.)

LABEL FILED: March 7, 1953, District of Minnesota.

ALLEGED SHIPMENT: On or about November 7, 1952, and January 23, 1953, by Kemmco Products, from Stevens Point, Wis.

PRODUCT: 21 cases, each containing 12 1-pound jars, of Whitex Special anti-oxidant at Minneapolis, Minn. Examination showed that the product contained sodium bisulfite.

LABEL, IN PART: (Jar) "Whitex Special Anti-Oxidant Fortified With Synox."

NATURE OF CHARGE: Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: May 25, 1953. Default decree of destruction.

20600. Adulteration of food color. U. S. v. Mil-Kay Corp. of America. Plea of nolo contendere. Fine of \$500, plus costs. (F. D. C. No. 34342. Sample Nos. 1173-L, 7942-L, 38858-L, 53926-L, 59012-L.)

LABEL FILED: May 5, 1953, Eastern District of Missouri, against the Mil-Kay Corp. of America, St. Louis, Mo.

ALLEGED SHIPMENT: On or about August 4, 5, and 9, 1952, from the State of Missouri into the States of Pennsylvania, Virginia, Tennessee, Georgia, and Florida.

LABEL, IN PART: "Special Mil-Kay Color F. D. & C. Yellow No. 6."

NATURE OF CHARGE: Adulteration, Section 402 (c), the article contained a coal-tar color, FD&C Yellow No. 6, which was other than one from a batch that had been certified in accordance with regulations.

DISPOSITION: May 29, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$500, plus costs.

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# U. S. Department of Health, Education, and Welfare

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20601-20650

#### FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

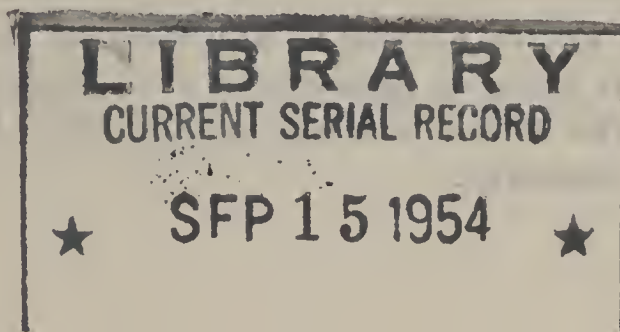
GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., August 17, 1954.

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**CEREALS AND CEREAL PRODUCTS****FLOUR**

**20601. Adulteration of flour. U. S. v. 88 Bags \* \* \* (and 2 other seizure actions).** (F. D. C. Nos. 35378, 35379, 35390. Sample Nos. 59299-L, 59459-L to 59461-L, incl.)

**LIBELS FILED:** August 11 and 17, 1953, Eastern and Western Districts of South Carolina.

**ALLEGED SHIPMENT:** On or about May 26, June 3 and 30, and July 9, 1953, from Statesville, N. C.

**PRODUCT:** 127 100-pound bags of flour at Columbia, Florence, and Rock Hill, S. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 8, 1953. The libel actions having been consolidated with the libel action reported in the following notice of judgment, No. 20602, and the Statesville Flour Mills Co., claimant, having admitted that the product was adulterated, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing for use as hog feed, under the supervision of the Department of Health, Education, and Welfare.

**20602. Adulteration of flour. U. S. v. 30 Bags \* \* \*. (F. D. C. No. 35375. Sample Nos. 59763-L, 59764-L.)**

**LIBEL FILED:** August 8, 1953, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about July 6, 7, and 17, 1953, by the Statesville Flour Mills Co., from Statesville, N. C.

**PRODUCT:** 30 100-pound bags of flour at Greenville, S. C.

**LABEL, IN PART:** (Bag) "Statesville Spring Wheat Baker's Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** September 8, 1953. The libel action in this case having been consolidated with the libel actions reported in the preceding notice of judgment, No. 20601, and the Statesville Flour Mills Co., claimant, having admitted that the product was adulterated, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing for use as hog feed, under the supervision of the Department of Health, Education, and Welfare.

**20603. Adulteration of flour. U. S. v. 58 Bags \* \* \*. (F. D. C. No. 35445. Sample No. 47300-L.)**

**LIBEL FILED:** August 7, 1953, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about May 15, 1953, from Fort Worth, Tex.

**PRODUCT:** 58 100-pound bags of flour at New Orleans, La.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

200 6 1 972



**DISPOSITION:** September 11, 1953. Default decree of condemnation and destruction.

**20604. Adulteration of flour. U. S. v. 200 Bags \* \* \*. (F. D. C. No. 35455. Sample No. 62597-L.)**

**LIBEL FILED:** August 13, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about July 21, 1953, by the Commander Larabee Milling Co., from Hutchinson, Kans.

**PRODUCT:** 200 25-pound bags of flour at Pine Bluff, Ark.

**LABEL, IN PART:** "Larabee's Airy Fairy Flour Enriched \* \* \* Bleached Phosphated Commander Larabee Milling Company Kansas City, Missouri."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** September 22, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

### MACARONI AND NOODLE PRODUCTS

**20605. Adulteration of egg noodles, macaroni, and spaghetti. U. S. v. Golden Grain Macaroni Co., Inc., and Paskey Dedomenico. Pleas of not guilty. Tried to the court. Verdict of not guilty on count 1 of information and verdict of guilty on remaining counts. Fine of \$5,000 against each defendant. Individual defendant also placed on probation for 3 years. Judgment affirmed upon appeal. (F. D. C. No. 32775. Sample Nos. 29477-L, 29478-L, 29871-L, 29872-L, 30182-L, 30340-L.)**

**INDICTMENT RETURNED:** June 19, 1952, Western District of Washington, against Golden Grain Macaroni Co., Inc., Seattle, Wash., and Paskey Dedomenico, president of the corporation.

**ALLEGED SHIPMENT:** On or about June 25 and July 16 and 26, 1951, from the State of Washington into the States of Idaho, Montana, and Oregon, and the Territory of Alaska.

**LABEL, IN PART:** (Package) "Golden Grain Enriched Egg Noodles [or "Cut Macaroni" or "Elbow Macaroni"]," "Elbow Macaroni," "Spaghetti," and "Golden Grain Thin Spaghetti."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect larvae and insect fragments; and, Section 402 (a) (4), the articles had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** The defendants having entered pleas of not guilty, the case came on for trial before the court without a jury on December 5, 1952. The trial was concluded on the same day, with the return by the court of a verdict of not guilty as to count 1 of the information, a verdict of guilty as to the other 5 counts of the information, and the imposition of a fine of \$5,000 against the corporation and \$5,000 against the individual. The court also placed the individual on probation for 3 years.

The defendants filed a motion for a new trial, which was denied by the court on January 13, 1953. A notice of appeal was filed by the defendants on January 14, 1953, and on December 28, 1953, the United States Court of Appeals for the Ninth Circuit handed down the following opinion:



HEALY, *Circuit Judge*: "Appellant Golden Grain Company is a California corporation doing business at Seattle, and appellant Dedomenico is its president and the general manager of its Seattle plant. The corporation manufactures and sells various types of macaroni, spaghetti, and other similar food products. In a six-count indictment the appellants were jointly charged with violations of the Federal Food, Drug and Cosmetic Act by causing adulterated foods to be introduced into interstate commerce. The indictment specifically alleged that the foods in question consisted in part of filthy substances such as insect larvae or fragments of insects, and had been prepared, packed, and held under insanitary conditions whereby they may have been contaminated with filth. The charges were laid under 21 USCA § 342 [402] (a) (3) and (4).<sup>1</sup> On a trial to the court without a jury each defendant was convicted on counts two to six, acquitted on count one, and sentenced to pay a fine of \$5,000.

"Appellants argue or suggest a variety of grounds for reversal, only a few of which are worthy of notice. One is that the evidence on behalf of the government was obtained illegally in that the officers designated by the Administrator to enter and inspect the plant did not first request and obtain permission to do so. The statutory provision invoked in section 704 of the Act, 21 USCA § 374, which grants authority to enter and inspect for enforcement purposes 'after first making request and obtaining permission of the owner, operator or custodian' of the factory, warehouse, or establishment involved. The showing on this subject is as follows:

"On July 18, 1951, Inspectors Shallit and Allen came to the plant, appellant Dedomenico being then absent in California. The two identified themselves to the lady receptionist, asked for Dedomenico, and were informed of his absence. Shallit requested permission to make an inspection and was told by the receptionist that Mr. McDiarmid was in charge of the plant but that he was not in at the moment but was expected down shortly. McDiarmid, it appears, was the Company's sales manager. Shallit then inquired who might grant permission, and the receptionist replied that she would inquire of Mr. Mulvaney, who appears to have been in charge of production. She left and shortly returned, informing the inspectors that Mulvaney 'didn't feel that he had authority to grant permission to make the inspection.' The officers waited for McDiarmid, who on arrival granted the permission requested. The inspection was made July 18 and 19. It appears that Dedomenico had departed for California on June 28, 1951, and that he returned July 25 following. A few days after his return the same officers appeared for the purpose of a second inspection for which Dedomenico readily gave his permission. On cross examination at the trial Dedomenico said that had he been present at the time of the first inspection he would have given permission to make it.

"The trial court ruled that on July 18 and 19 McDiarmid was custodian of the plant in the sense of the statute and that there had been no disregard of the statutory directive. The ruling was obviously not error. McDiarmid was held out to the officers as the person in charge, and he acted as such. The authority of the Administrator to make investigations of this nature is broadly granted. See 21 USCA § 372 (a), and consult *Research Laboratories v. United States*, 9 Cir., 167 F. 2d 410, 414. Compare also 21 USCA §§ 373 and 331 (e), and the language of the Fourth Circuit in *United States v. 75 Cases Peanut Butter*, 146 F. 2d 124, at pages 127 and 128. At best the point is in the last degree technical.

"It is claimed that the government's evidence to show adulteration, in that the food had been prepared, packed and held under insanitary conditions, is insufficient to sustain the convictions. The claim is without substance, as a brief summary of the testimony will indicate. Three interstate shipments of allegedly adulterated products are involved. Samples from each were obtained and analyzed by representatives of the Food and Drug Administration, and insects or larvae fragments and other foreign matter were found in each sample. The sanitary conditions prevailing in the Seattle plant during June and July of 1951—the period during which the food in question was manufactured—were described not only by the inspectors of the Food and Drug Administration but

<sup>1</sup> "§ 342 [402], Adulterated Food :

"A food shall be deemed to be adulterated—

"(a) . . . (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; . . . ."



by former and present employees of the corporation. Inspectors Shallit and Allen described the inside appearance of the plant building, including the flour storage bin, the conveying system, and the manufacturing and drying equipment, and they testified to finding everywhere live or dead moths, live larvae, insect webbing, and pupae.

"It is urged that Dedomenico can not be held responsible for the shipments inasmuch as he was admittedly absent from the plant during the period June 28 to July 25. We do not agree. It is notable that the food product involved in one of the counts was manufactured and packed before he left for San Francisco, and that samples from this pack were shown to be more seriously contaminated than the majority of the other samples taken. Also it appears that one of the three shipments was made on July 26, the day after he returned. The unsanitary conditions found in the establishment had certainly prevailed for a considerable length of time prior to his departure. The record discloses also that he and the corporation had suffered a previous conviction for like violations of the Act. It is unnecessary to rest decision in this respect on the settled rule appealed to by government counsel that the criminal responsibility of a corporate officer having broad authority such as that possessed by this defendant does not depend upon his physical presence. See in support of the rule *United States v. Dotterweich*, 320 U. S. 277, 281-285; *United States v. Kaadt*, 7 Cir., 171 F. 2d 600, 604; *United States v. Parfait Powder Puff Co.*, 7 Cir., 163 F. 2d 1008, 1009-1010, cert. den. 322 U. S. 851; *State v. Burnam* (Wash.), 128 Pac. 218; *People v. Schwartz* (Wash.), 70 P. 2d 1017.

"Another contention is that § 342 [402] (a) (4), on which the convictions in part rest, is so indefinite, uncertain and obscure as to render it violative of the Fifth and Sixth Amendments. The provision has been quoted in footnote 1 above, but for convenience we repeat its language. It declares that a food shall be deemed adulterated 'if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.'

"No decision directly in point is cited in support of the contention. The Eighth Circuit, in *Berger v. United States*, 200 F. 2d 818, held that the section conveys a sufficiently definite warning as to what conduct would constitute a crime to save the provision from invalidity for vagueness. We are in agreement with this holding. Compare *Boyce Motor Lines v. United States*, 342 U. S. 337, dealing with the alleged vagueness of a regulation promulgated by the Interstate Commerce Commission under statutory authority. In rejecting the claim of vagueness, the Court there said (p. 340) that 'but few words possess the precision of mathematical symbols, most statutes must deal with untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government inevitably limit the specificity with which legislators can spell out prohibitions. Consequently, no more than a reasonable degree of certainty can be demanded. Nor is it unfair to require that one who deliberately goes perilously close to an area of proscribed conduct shall take the risk that he may cross the line.' See also *United States v. Petrillo*, 332 U. S. 1, where the words 'unneeded employees' were held sufficiently clear to escape condemnation.

"Other points raised are too lacking in substance to warrant discussion.

"The judgment is affirmed."

**20606. Adulteration and misbranding of egg noodles. U. S. v. American Beauty Macaroni Co. Plea of nolo contendere. Fine of \$150, plus costs. (F. D. C. No. 34866. Sample No. 22608-L.)**

**INFORMATION FILED:** June 25, 1953, Western District of Missouri, against the American Beauty Macaroni Co., a corporation, Kansas City, Mo.

**ALLEGED SHIPMENT:** On or about May 5, 1952, from the State of Missouri into the State of Texas.

**LABEL, IN PART:** "American Beauty Egg Noodles Contain 5½% Egg Solids."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in part omitted from the article; and, Section 402 (b) (2), a product, the total solids of which contained less than 5.5 percent by weight of the solids of egg or egg yolk, had been substituted for egg noodles.



Misbranding, Section 403 (a), the label statement "Contains 5½% Egg Solids" was false and misleading; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

DISPOSITION: July 10, 1953. A plea of nolo contendere having been entered, the court fined the defendant \$150, plus costs.

### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20607. Adulteration of unpopped popcorn. U. S. v. Confections, Inc., and Floyd Fall. Pleas of guilty. Fine of \$250 against corporation and \$50 against individual, plus costs. (F. D. C. No. 35140. Sample No. 36295-L.)**

INFORMATION FILED: August 24, 1953, Southern District of Iowa, against Confections, Inc., Red Oak, Iowa, and Floyd Fall in charge as foreman of the corporation's Red Oak plant.

ALLEGED SHIPMENT: On or about September 25, 1952, from the State of Iowa into the State of Ohio.

LABEL, IN PART: "Big Boy Popcorn Confections, Inc. Red Oak, Iowa Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent-gnawed and insect-eaten kernels of corn, and rodent hairs; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 28, 1953. The defendants having entered pleas of guilty, the court imposed a fine of \$250 against the corporation and \$50 against the individual, plus costs.

**20608. Adulteration of rice. U. S. v. 42 Bags, etc. (F. D. C. No. 35416. Sample Nos. 59379-L, 59380-L.)**

LIBEL FILED: September 3, 1953, Northern District of Georgia.

ALLEGED SHIPMENT: On or about September 23, October 19, and December 1, 1952, from Stuttgart and Jonesboro, Ark.

PRODUCT: 94 100-pound bags of rice at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 14, 1953. The Arkansas Rice Growers Co-Op. Association, Stuttgart, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 300 pounds of the product were found unfit and were denatured for use as stock feed.

**20609. Adulteration of rice. U. S. v. 6 Bags, etc. (F. D. C. No. 35473. Sample Nos. 65226-L, 65227-L.)**

LIBEL FILED: September 3, 1953, Southern District of Iowa.



**ALLEGED SHIPMENT:** On or about October 4, 1952, and March 16, 1953, from De Witt, Ark.

**PRODUCT:** 9 100-pound bags of rice at Burlington, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

**20610. Adulteration of rice. U. S. v. 9 Bags \* \* \*. (F. D. C. No. 45372. Sample No. 65228-L.)**

**LIBEL FILED:** September 3, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about March 16, 1953, from De Witt, Ark.

**PRODUCT:** 9 100-pound bags of rice at Burlington, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent urine. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

**20611. Adulteration of bakery mix. U. S. v. 4 Bags \* \* \*. (F. D. C. No. 35453. Sample No. 59367-L.)**

**LIBEL FILED:** August 13, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about July 10, 1953, from Tallahassee, Fla.

**PRODUCT:** 4 100-pound bags of bakery mix at Thomasville, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

## DAIRY PRODUCTS

### BUTTER

The following cases' report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. **20612** and **20613**; that was below the legal standard for milk fat content, Nos. **20614** to **20620**.

**20612. Adulteration of butter. U. S. v. American Stores Co., Inc (Lakeville Creamery Co.), and J. Kenneth Conner. Pleas of guilty. Fine of \$1,000 against corporation and \$1,000 against individual. (F. D. C. No. 34847. Sample No. 23566-L.)**

**INFORMATION FILED:** May 28, 1953, District of Minnesota, against American Stores Co., Inc., trading as the Lakeville Creamery Co., Lakeville, Minn., and J. Kenneth Conner, general manager of the corporation's Lakeville plant.

**ALLEGED SHIPMENT:** On or about August 27, 1952, from the State of Minnesota into the State of New York.

**LABEL, IN PART:** "Butter Distributed By Breakstone Bros. Inc. N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, manure fragments, and rodent hair fragments, and by reason of the use of filthy cream in the preparation of the article.

**DISPOSITION:** November 2, 1953. Pleas of guilty having been entered, the court fined the corporation \$1,000 and the individual \$1,000.

**20613. Adulteration of butter. U. S. v. Pickerington Creamery, Inc., and Arthur J. Good. Pleas of guilty. Fine of \$5,000 against each defendant. (F. D. C. No. 34818. Sample Nos. 35952-L, 35953-L, 35963-L to 35965-L, incl.)**

**INDICTMENT RETURNED:** June 16, 1953, Southern District of Ohio, against Pickerington Creamery, Inc., Pickerington, Ohio, and Arthur J. Good, president and general manager of the corporation.

**ALLEGED VIOLATION:** On or about February 14, 1949, the defendants gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that the article comprising each shipment or other delivery made by the defendants to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about August 12 and 18 and September 2, 1952, the defendants caused to be shipped and delivered to the holder of the guaranty, at Cleveland, Ohio, a number of boxes of adulterated butter.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, plant fragments, rodent hair fragments, fly setae, moth scales, and mites, and by reason of the use of filthy and decomposed cream in the preparation of the article.

**DISPOSITION:** December 15, 1953. The defendants having entered pleas of guilty, the court fined each defendant \$5,000.

**20614. Adulteration of butter. U. S. v. Gilman Cooperative Creamery Association and Ervin M. Bohlig. Pleas of guilty. Fine of \$300 against association and \$200 against individual. (F. D. C. No. 35156. Sample Nos. 20484-L, 67050-L.)**

**INFORMATION FILED:** August 26, 1953, District of Minnesota, against the Gilman Cooperative Creamery Association, a corporation, Gilman, Minn., and Ervin M. Bohlig, manager.

**ALLEGED SHIPMENT:** On or about April 10 and 22, 1953, from the State of Minnesota into the State of Pennsylvania.

**LABEL, IN PART:** (Box) "Butter Distributed By C. W. Dunnet & Co. 178 Phila., Pa. Net Wt. 60."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** November 6, 1953. The defendants having entered pleas of guilty, the court fined the association \$300 and the individual \$200.



**20615. Adulteration of butter. U. S. v. 937 Cartons (29,984 pounds) \* \* \*.**

(F. D. C. No. 35535. Sample No. 49804-L.)

**LIBEL FILED:** February 25, 1953, District of New Jersey.**ALLEGED SHIPMENT:** On or about January 15, 1953, by Beaver Meadow Creamery, Inc., from Du Bois, Pa.**PRODUCT:** 937 32-pound cartons of butter at Jersey City, N. J.**LABEL, IN PART:** "Beaver Meadow Brand Butter."**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.**DISPOSITION:** April 24, 1953. Beaver Meadow Creamery, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.**20616. Adulteration of butter. U. S. v. 60 Cubes (4,200 pounds) \* \* \*. (F. D. C. No. 35539. Sample No. 43683-L.)****LIBEL FILED:** May 14, 1953, Northern District of California.**ALLEGED SHIPMENT:** On or about May 2, 1953, by the Mountain States Creamery Co., from Salt Lake City, Utah.**PRODUCT:** 60 70-pound cubes of butter at San Francisco, Calif.**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.**DISPOSITION:** May 26, 1953. The Mountain States Creamery Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning so that it would comply with the law, under the supervision of the Department of Health, Education, and Welfare. The product was rechurned.**20617. Adulteration of butter. U. S. v. 42 Cartons (2,520 pounds) \* \* \*. (F. D. C. No. 35536. Sample No. 67050-L.)****LIBEL FILED:** April 14, 1953, Eastern District of Pennsylvania.**ALLEGED SHIPMENT:** On or about April 10, 1953, by the Gilman Cooperative Creamery Association, from Gilman, Minn.**PRODUCT:** 42 60-pound cartons of butter at Philadelphia, Pa.**LABEL, IN PART:** "Butter Distributed By C. W. Dunnet & Co. Phila., Pa."**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.**DISPOSITION:** May 12, 1953. C. W. Dunnet & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare.**20618. Adulteration of butter. U. S. v. 34 Boxes (2,040 pounds) \* \* \*. (F. D. C. No. 35538. Sample No. 20484-L.)****LIBEL FILED:** April 29, 1953, District of Minnesota; amended libel filed May 6, 1953.**ALLEGED SHIPMENT:** The Gilman Cooperative Creamery Association introduced butter into interstate commerce, at Minneapolis, Minn., for delivery to Philadelphia, Pa., on or about April 22, 1953.

PRODUCT: 34 60-pound boxes of butter at Minneapolis, Minn.

LABEL, IN PART: "Butter Distributed By C. W. Dunnet & Co. Phila., Pa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 8, 1953. The Gilman Cooperative Creamery Association, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

**20619. Adulteration of butter. U. S. v. 23 Boxes (1,288 pounds) \* \* \*. (F. D. C. No. 35537. Sample No. 20483-L.)**

LIBEL FILED: May 4, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 22, 1953, by the St. Martin Cooperative Creamery Association, from St. Martin, Minn.

PRODUCT: 23 56-pound boxes of butter at Springfield, Mass.

LABEL, IN PART: "The Great A. & P. Tea Co. New York Distributors Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 10, 1953. The St. Martin Cooperative Creamery Association, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

**20620. Adulteration of butter. U. S. v. 9 Boxes (288 pounds) \* \* \*. (F. D. C. No. 35534. Sample Nos. 44904-L, 44905-L.)**

LIBEL FILED: January 14, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 17 and 28, 1952, by the Beatrice Foods Co., from New Bremen, Ohio.

PRODUCT: 9 32-pound boxes of butter at Boston, Mass.

LABEL, IN PART: "Meadow Gold Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

### CHEESE

**20621. Adulteration of cheese. U. S. v. Nelson-Ricks Creamery Co. and David H. Manwaring. Pleas of nolo contendere. Fine of \$200 against company and \$10 against individual. (F. D. C. No. 34861. Sample No. 18440-L.)**

INFORMATION FILED: August 21, 1953, District of Idaho, against the Nelson-Ricks Creamery Co., a corporation, Rexburg, Idaho, and David H. Manwaring, vice president of the corporation and manager of the Idaho operations of the firm.

ALLEGED SHIPMENT: Between the approximate dates of June 27 and July 3, 1952, from the State of Idaho into the State of California.



**LABEL, IN PART:** "Banquet Pasteurized Whole Milk Longhorn Cheese Banquet Better Foods (Nelson-Ricks Creamery Co.) General Offices: Salt Lake City, Utah."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of filth-contaminated milk in the preparation of the article.

**DISPOSITION:** November 9, 1953. The defendants having entered pleas of nolo contendere, the court fined the company \$200 and the individual \$10.

**20622. Adulteration of cheese. U. S. v. Nelson-Ricks Creamery Co. and David H. Manwaring. Pleas of nolo contendere. Fine of \$500 against company and \$20 against individual. (F. D. C. No. 34861. Sample Nos. 14530-L, 14532-L.)**

**INFORMATION FILED:** July 3, 1953, District of Idaho, against the Nelson-Ricks Creamery Co., a corporation, Richfield, Idaho, and David H. Manwaring, vice president of the corporation and manager of the Idaho operations of the firm.

**ALLEGED SHIPMENT:** On or about September 26 and October 3, 1952, from the State of Idaho into the State of California.

**LABEL, IN PART:** "Banquet Monterey Cheese Manufactured and Distributed By Banquet Better Foods Salt Lake City, Utah—Rexburg, Idaho."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of filth-contaminated milk in the preparation of the article.

**DISPOSITION:** November 9, 1953. The defendants having entered pleas of nolo contendere, the court fined the company \$500 and the individual \$20.

**20623. Misbranding of muenster cheese. U. S. v. 630 Boxes \* \* \*. (F. D. C. No. 35287. Sample Nos. 51716-L, 51719-L, 51724-L, 51725-L.)**

**LIBEL FILED:** May 29, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 25, 1953, by the Kraft Foods Co. of Wis., from Beaver Dam, Wis.

**PRODUCT:** 630 boxes, each containing 6 5-pound rounds, of muenster cheese at Hillside, N. J.

**LABEL, IN PART:** (Round) "Elkhorn Brand Muenster Cheese Made From Pasteurized Milk."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Made From Pasteurized Milk" was false and misleading as applied to the article, which was made from milk which had not been pasteurized. Further misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for muenster cheese since the article was made from milk which had not been pasteurized.

**DISPOSITION:** November 12, 1953. The Wisconsin Cheese Makers' Association, Plymouth, Wis., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Department of Health, Education, and Welfare.

## EGGS

**20624. Adulteration of frozen egg yolks. U. S. v. Oliver G. Harp. Plea of guilty. Fine, \$1,000. (F. D. C. No. 34352. Sample No. 38020-L.)**

**INDICTMENT RETURNED:** October 7, 1953, Western District of Oklahoma, against Oliver G. Harp, Shawnee, Okla.

**ALLEGED SHIPMENT:** On or about December 7, 1951, from the State of Oklahoma into the State of New York.

**LABEL, IN PART:** "Frozen Egg Yolks 30 Lbs. Net Weight Packed by Harp Foods Mfg. Co. Shawnee, Okla."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** The defendant filed motions to dismiss the indictment and to strike certain allegations therefrom and for a bill of particulars, and, on November 13, 1953, these motions were overruled. The defendant entered a plea of guilty, and on November 16, 1953, the court fined him \$1,000.

**20625. Adulteration of frozen eggs. U. S. v. 125 Cans, etc. (F. D. C. No. 35388. Sample Nos. 52726-L, 52727-L.)**

**LIBEL FILED:** August 17, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about July 27, 1953, by C. E. Clarke & Sons, from Bloomsburg, Pa.

**PRODUCT:** 135 30-pound cans of frozen eggs at Brooklyn, N. Y.

**LABEL, IN PART:** (Can) "C. E. Clarke & Sons, Bloomsburg, Pa. Frozen Whole Eggs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs, and a portion of the article consisted in whole or in part of a filthy substance by reason of the presence of flies and fly parts.

**DISPOSITION:** October 16, 1953. Default decree of condemnation and destruction.

## FISH AND SHELLFISH

**20626. Adulteration of canned jack mackerel. U. S. v. 748 Cases \* \* \* (and 5 other seizure actions). (F. D. C. Nos. 34776, 34994, 34999, 35041, 35082, 35093. Sample Nos. 39513-L, 47624-L, 47625-L, 62287-L, 62290-L, 62575-L, 62578-L.)**

**LIBELS FILED:** March 26 and July 2, 1953, Western District of Tennessee, Southern District of Mississippi, and Eastern District of Arkansas.

**ALLEGED SHIPMENT:** Between the approximate dates of January 23 and April 1, 1953, by Pan-Pacific Fisheries, Inc., from Terminal Island, Calif., and Memphis, Tenn.

**PRODUCT:** 3,400 cases, each containing 48 cans, of jack mackerel at Memphis, Tenn., Jackson, Miss., and Jonesboro and Earle, Ark.

**LABEL, IN PART:** (Can) "Sweep Stakes Brand California Jack Mackerel \* \* \* Contents 15 Oz. Avoir."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** Pan-Pacific Fisheries, Inc., appeared as claimant and upon the basis of a motion made by it, an order was entered providing for consolidation and removal of the libel actions for trial in the District of Nevada.

On November 30, 1953, the Government and the claimant having agreed that 7 codes of the product under seizure were adulterated, that 11 codes of the product were not adulterated, and that there may be added codes of the product which may or may not be adulterated, and the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 1,660 cases were found to be unfit and were disposed of for use as bait and trout food.

**20627. Adulteration and misbranding of canned salmon. U. S. v. 11 Cases \* \* \*.**

(F. D. C. No. 35360. Sample No. 59296-L.)

**LIBEL FILED:** July 20, 1953, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about March 12, 1953, by Hamlin-Halferty Seafoods, from Seattle, Wash.

**PRODUCT:** 11 cases, each containing 48 1-pound cans, of salmon at Charlotte, N. C.

**LABEL, IN PART:** (Can) "Ocean Tang Brand Pink Salmon."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), chum salmon had been substituted in whole or in part for pink salmon, which the article was represented to be.

Misbranding, Section 403 (a), the label designation "Pink Salmon" was false and misleading as applied to chum salmon.

**DISPOSITION:** October 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for consumption by the inmates.

**20628. Misbranding of canned tuna. U. S. v. 89 Cases \* \* \*. (F. D. C. No. 35367. Sample No. 64631-L.)**

**LIBEL FILED:** July 27, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 7, 1953, by Whitney & Co., from Seattle, Wash.

**PRODUCT:** 89 cases, each containing 48 cans, of tuna at Boston, Mass.

**LABEL, IN PART:** (Can) "Mrs. Lane's Tuna Meat White Meat Chunks & Flakes Salt Added Contents 7 Oz. Avoir."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

**DISPOSITION:** September 18, 1953. The J. R. Poole Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20629. Adulteration of crab cocktail and shrimp cocktail. U. S. v. 29 Cases, etc.**  
Decree of condemnation. Action for criminal contempt instituted against Alvin Flake. Contempt action dismissed. (F. D. C. No. 33679. Sample Nos. 30669-L, 64021-L, 64022-L.)

**LIBEL FILED:** September 11, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 23 and August 5, 1952, by the M. & S. Canning Co., from Milwaukie, Oreg.

**PRODUCT:** 29 cases, each containing 24 3¼-ounce jars, and 49 cases, each containing 24 3-ounce jars, of crab cocktail, and 24 cases, each containing 24 3-ounce jars, of shrimp cocktail, at Seattle, Wash. Examination showed that the products consisted of tomato sauce with small amounts of crabmeat and shrimpmeat.

**LABEL, IN PART:** (Jar) "Smith's Sea Foods Crab Cocktail [or "Shrimp Cocktail"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, crabmeat and shrimpmeat, had been in part omitted from the articles.

**DISPOSITION:** On April 3, 1953, a default decree of condemnation and destruction was entered. Thereafter, the United States marshal attempted to locate the product for the purpose of effecting its destruction in accordance with the terms of the decree, but was unable to find any portion of it. Subsequently, an action for criminal contempt was instituted against Alvin Flake, a food broker engaged in business in Seattle, based upon the unwarranted disappearance of the product. The contempt action came on for hearing before the court on December 5, 1953, and, at the conclusion of the Government's case, a motion was made by Defendant Flake for dismissal of the action because of insufficiency of proof. After consideration of the testimony and the arguments of counsel, the court found that the defendant was not guilty of contempt of court as charged and ordered that the contempt proceedings be dismissed.

**20630. Adulteration of crabmeat. U. S. v. 4 Boxes \* \* \*. (F. D. C. No. 35545.**  
Sample No. 50308-L.)

**LIBEL FILED:** July 27, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 18, 1953, by the G. L. Lewis Crabmeat Plant, from Jacksonville, Fla.

**PRODUCT:** 4 boxes, each containing 100 1-pound cans, of crabmeat at New York, N. Y. Examination showed that the product was contaminated with *E. coli*.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

**DISPOSITION:** September 17, 1953. Default decree of condemnation and destruction.

**20631. Adulteration of crabmeat. U. S. v. 200 Cans, etc. (F. D. C. No. 35544.**  
Sample Nos. 2583-L, 50305-L, 50306-L.)

**LIBEL FILED:** July 24, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 14, 1953, by the G. L. Lewis Crabmeat Plant, from Jacksonville, Fla.



**PRODUCT:** 300 1-pound cans of crabmeat at New York, N. Y. Examination showed that the product was contaminated with *E. coli*.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

**DISPOSITION:** September 15, 1953. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20632. Misbranding of canned apricots. U. S. v. 99 Cases \* \* \*. (F. D. C. No. 35398. Sample No. 42083-L.)**

**LIBEL FILED:** August 21, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about July 23, 1953, by the Consolidated Grocers Corp., from San Francisco, Calif.

**PRODUCT:** 99 cases, each containing 24 cans, of apricots at Somerville, Mass.

**LABEL, IN PART:** (Can) "Monarch Unpeeled Halves Apricots \* \* \* Packed In Extra Heavy Syrup Contents 1 Lb. 1 Oz. (482 Gms.)."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the label of the article failed to bear, as required by the definition and standard of identity for canned apricots, the name of the optional packing medium present in the article since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as heavy sirup in the definition and standard.

**DISPOSITION:** November 6, 1953. The Reid Murdoch Division, Consolidated Grocers Corp., Somerville, Mass., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20633. Misbranding of canned peaches. U. S. v. 397 Cases \* \* \*. (F. D. C. No. 35227. Sample Nos. 43080-L, 45234-L.)**

**LIBEL FILED:** May 6, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 4, 1953, by the Stanislaus Food Products Co., from Stockton, Calif.

**PRODUCT:** 397 cases, each containing 24 cans, of peaches at Somerville, Mass.

**LABEL, IN PART:** (Can) "'Yor' Garden Sliced Ripe Yellow Freestone Peaches Elberta Variety In Extra Heavy Syrup \* \* \* Net Weight 1 Lb. 14 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the label of the article failed to bear, as the definition and standard for canned peaches requires, the name of the optional packing medium present in the article since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as heavy sirup in the definition and standard.

**DISPOSITION:** November 12, 1953. The Stanislaus Food Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.



## MISCELLANEOUS FRUIT PRODUCTS

**20634. Action to enjoin and restrain the interstate shipment of adulterated concentrated apple juice and vinegar. U. S. v. Speas Co. Consent decree of injunction. (Inj. No. 256.)**

**COMPLAINT FILED:** January 30, 1953, Eastern District of Washington, against the Speas Co., a corporation, doing business at Yakima, Wash.

**NATURE OF CHARGE:** That the defendant was engaged in the manufacture of concentrated apple juice and vinegar and had been and was at the time of filing the complaint causing the introduction and delivery for introduction into interstate commerce of such articles which were adulterated within the meaning of Section 402 (a) (3), in that the articles consisted in part of filthy and decomposed substances by reason of the presence in the concentrated apple juice of insects, worms, insect fragments, and soluble insect fat; by reason of the use of decomposed and insect-damaged raw material; and by reason of the use of fermented apple juice containing insects in the preparation of vinegar; and within the meaning of Section 402 (a) (4), in that the articles had been and were being prepared, packed, and held at the defendant's Yakima plant under insanitary conditions whereby the articles may become contaminated with filth. The complaint alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of thousands of vinegar flies throughout the plant and in and around equipment and materials used for preparing the articles; apple pulp scattered over the buildings and in and around the equipment, which pulp contained vinegar fly maggots, adult flies, fly fragments, and fragments of maggots; troughs through which the apple juice and vinegar flowed being coated with slimy material containing flies, maggots, and fly fragments; storage tanks containing vinegar flies; unscreened doorways and windows; and a general carelessness on the part of the defendant and its employees.

The complaint alleged also that the defendant had on hand at its Yakima plant a large quantity of adulterated concentrated apple juice and vinegar, which, in the usual and ordinary course of business, would be shipped in interstate commerce; and that such articles constituted a menace to interstate commerce because of contamination with filth. The complaint further alleged, on information and belief, that the defendant would continue to introduce and deliver for introduction into interstate commerce adulterated concentrated apple juice and vinegar unless restrained by the court.

**DISPOSITION:** On January 30, 1953, the court entered a temporary restraining order enjoining the defendants against the acts complained of. This order subsequently was extended. On March 3, 1953, the defendant having consented to the entry of a decree, the court entered a decree permanently enjoining and restraining the defendant from introducing or delivering for introduction into interstate commerce from its Yakima plant concentrated apple juice or vinegar, or any other such article of food which was adulterated within the meaning of Section 402 (a) (3) and (4).

The decree provided further that the defendant be perpetually enjoined and restrained from introducing or delivering for introduction into interstate commerce all of that stock of concentrated apple juice and vinegar which the defendant at that time had on hand and stored and held at its Yakima plant, which was adulterated within the meaning of Section 402 (a) (3) and (4).

On March 18, 1953, a consent order for disposition was entered by the court, permitting the defendant to ship from its Yakima plant to its plant in Kansas



City, Mo., a number of gallons of cider concentrate and cider stock for distillation into spirits under the supervision of the Federal Security Agency, and to permit certain quantities of vinegar to be released from the terms of the permanent injunction. On June 2, 1953, another consent decree of disposition was entered ordering that the vinegar held in certain storage tanks at the defendant's Yakima plant be segregated and released from the terms of the injunction and that the remainder of the vinegar in such tanks be distilled or destroyed. On September 29, 1953, a third consent decree of disposition was entered, permitting all 60 proof cider vinegar then held in certain tanks in the Yakima plant to be denatured with salt and distilled to produce distilled vinegar, and providing for the distilled vinegar to be free of the terms of the injunction.

### VEGETABLES AND VEGETABLE PRODUCTS

**20635. Adulteration of dried black-eyed peas. U. S. v. 340 Bags \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34469, 34470. Sample Nos. 2269-L, 2729-L.)**

**LIBELS FILED:** On or about January 5 and 7, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about November 1, 1952, by Gaspar Romero Martinez, from Holguin, Cuba.

**PRODUCT:** 683 100-pound bags of dried black-eyed peas at Jacksonville and Miami, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, and insect parts.

**DISPOSITION:** November 5, 1953. Green Bros., Inc., Miami, Fla., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. On February 24, 1954, amended decrees were entered providing for the denaturing of the product for use other than for human consumption.

**20636. Misbranding of roasted ground chickpeas. U. S. v. Blue Ribbon Coffees, Inc. Plea of guilty. Fine, \$50. (F. D. C. No. 34325. Sample No. 24849-L.)**

**INFORMATION FILED:** May 12, 1953, Eastern District of New York, against Blue Ribbon Coffees, Inc., New York, N. Y.

**ALLEGED SHIPMENT:** On or about July 7, 1952, from Brooklyn, N. Y., to Philadelphia, Pa.

**LABEL, IN PART:** "XX Special Guaranty Coffee Co. \* \* \* Phila. Pa."

**NATURE OF CHARGE:** Misbranding, Section 403 (i) (1), the article failed to bear a label containing the common or usual name of the article, namely, roasted ground chickpeas.

**DISPOSITION:** November 9, 1953. The defendant having entered a plea of guilty, the court fined it \$50.

**20637. Adulteration of sweet relish. U. S. v. Julius Paley (Colony Foods), and Abe Kaikow. Pleas of guilty. Fine of \$200 against Defendant Paley and \$100 against Defendant Kaikow. Each defendant placed on probation for 2 years. (F. D. C. No. 34345. Sample Nos. 66627-L, 66664-L.)**

**INFORMATION FILED:** April 28, 1953, District of New Jersey, against Julius Paley, trading as Colony Foods, Vineland, N. J., and Abe Kaikow, manager.

**ALLEGED SHIPMENT:** On or about September 16 and 22, 1952, from the State of New Jersey into the State of Pennsylvania.

**LABEL, IN PART:** "Stricklers' Dove Brand Sweet Relish \* \* \* Charles Strickler & Sons Distributors Philadelphia" and "Arleen Brand Fancy Sweet India Relish \* \* \* Distributed by Arleen Products Philadelphia Penna."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 20, 1953. Pleas of guilty having been entered, the court imposed a fine of \$200 against Defendant Paley and \$100 against Defendant Kaikow and placed each defendant on probation for 2 years.

### TOMATOES AND TOMATO PRODUCTS

**20638. Adulteration of canned tomatoes. U. S. v. 959 Cases \* \* \*. Tried to the court. Decision for the Government. Decree of condemnation and destruction. (F. D. C. No. 34478. Sample No. 7981-L.)**

**LIBEL FILED:** December 10, 1952, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 29, 1952, by the Brown Canning Co., from Woodside, Del.

**PRODUCT:** 959 cases, each containing 24 cans, of tomatoes at Pittsburgh, Pa.

**LABEL, IN PART:** (Can) "Pride of the Farm Brand Contents 1 Lb. 3 Oz. Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** Miles A. Brown, trading as the Brown Canning Co., claimant, filed an answer denying that the product was adulterated, as alleged in the libel. The case came on for trial before the court on December 9, 1953, and was concluded on the same day, with a finding by the court that the product contained a decomposed substance and was adulterated. The court entered a decree of condemnation and destruction on December 9, 1953.

**20639. Adulteration of tomato puree and pizza sauce. U. S. v. Delta Food Packers, Inc. Plea of guilty. Fine, \$250. (F. D. C. No. 33833. Sample Nos. 3721-L, 24821-L.)**

**INFORMATION FILED:** January 29, 1953, District of New Jersey, against Delta Food Packers, Inc., doing business at Hammonton and Winslow, N. J.

**ALLEGED SHIPMENT:** On or about February 8 and 25, 1952, from the State of New Jersey into the State of Virginia and the District of Columbia.

**LABEL, IN PART:** (Can) "Pocahontas Fancy Tomato Puree \* \* \* Distributed by Taylor & Sledd, Inc. Richmond, Va." and "Village Tower \* \* \* Pizza Sauce Made from Whole Red Ripe Tomatoes Packed By Delta Food Packers, Inc. Winslow, New Jersey."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of fly eggs and



maggots; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** November 20, 1953. The defendant having entered a plea of guilty, the court fined it \$250.

## NUTS

**20640. Adulteration of shelled peanuts. U. S. v. Farmers Cotton & Peanut Co., Inc., and Ellis J. Broughton. Pleas of not guilty. Tried to the court. Verdict of guilty for corporation and verdict of not guilty for individual. Fine of \$150 against corporation. (F. D. C. No. 35178. Sample No. 57836-L.)**

**INFORMATION FILED:** October 1, 1953, Eastern District of North Carolina, against Farmers Cotton & Peanut Co., Inc., Plymouth, N. C., and Ellis J. Broughton, secretary and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about April 8, 1953, from the State of North Carolina into the State of Virginia.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** Pleas of not guilty having been entered by the defendants, the case came on for trial before the court without a jury on October 28, 1953. At the conclusion of the trial, the court returned a verdict of guilty against the corporation and a verdict of not guilty against the individual. On October 28, 1953, the court imposed a fine of \$150 against the corporation.

**20641. Adulteration of shelled peanuts. U. S. v. 82 Bags \* \* \*. (F. D. C. No. 34008. Sample Nos. 54735-L, 54736-L.)**

**LABEL FILED:** October 10, 1952, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about August 13 and September 6, 1952, by the Southern Cotton Oil Co., from Cordele, Ga.

**PRODUCT:** 82 125-pound bags of shelled peanuts at Detroit, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested peanuts, and of a decomposed substance by reason of the presence of decomposed peanuts.

**DISPOSITION:** December 11, 1953. The Southern Cotton Oil Co., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be subject to disposition by the Government. The product was delivered to a Federal institution, for use as stock feed.

## OILS AND FATS

**20642. Action to enjoin and restrain the interstate shipment of adulterated soybean oil. U. S. v. Southern Cotton Oil Co. and W. V. Westmoreland. Consent decree of permanent injunction entered. (Inj. No. 262.)**

**COMPLAINT FILED:** April 7, 1953, Eastern District of North Carolina, against the Southern Cotton Oil Co., a corporation, Hertford, N. C., and W. V. Westmoreland, district manager of the corporation.

**NATURE OF CHARGE:** That the defendants were engaged in the manufacture and distribution of soybean oil and had been and were, at the time of filing the complaint, causing the introduction and delivery for introduction into interstate commerce of soybean oil which was adulterated under Section 402 (a) (4) in that it had been and was being prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the corporation's plant at Hertford, N. C., resulted from the presence of rodent excreta on the bags of soybeans and in the soybeans used in the manufacture of soybean oil, from the presence of rodents, rodent excreta, cat excreta, bird excreta, human excreta, and rodent poison in and around places in the corporation's plant where the soybeans used in the manufacture of the oil were stored and held, and from the use of flour sweepings in the manufacture of the oil; and that the insanitary conditions resulted also from general carelessness on the part of the defendants and their employees.

The complaint alleged also that the refining process of the expressed oil obtained from the soybeans was such that the oil-soluble portions of the filth remained in the soybean oil; and that the defendants had in storage in the plant more than 2,500 tons of soybeans which were held under insanitary conditions and which constituted a menace to interstate commerce. The complaint alleged further that the defendants continued to introduce and deliver for introduction into interstate commerce adulterated soybean oil, and alleged on information and belief that the defendants would continue to do so unless restrained.

**DISPOSITION:** April 28, 1953. The defendants having consented to the entry of a decree, a permanent injunction was entered enjoining and restraining the defendants from causing to be introduced or delivered for introduction into interstate commerce soybean oil or any other such article of food which was adulterated within the meaning of Section 402 (a) (4).

The decree provided further that the defendants be perpetually enjoined and restrained from causing the introduction or delivery for introduction into interstate commerce of any contaminated soybeans for use in the manufacture of human food provided, however, that the contaminated soybeans could be sold for planting or for export. The decree provided also that the defendants should be permitted to export as technical grade soybean oil, (1) soybean oil which was adulterated within the meaning of Section 402 (a) (4), and (2), soybean oil expressed from soybeans stored on April 7, 1953, at the corporation's plant at Hertford, N. C., on condition that such exported technical grade soybean oil or contaminated soybeans be in compliance with the provisions of Section 801 (d).

**20643. Adulteration of crude soybean oil. U. S. v. Durant Cotton Oil & Peanut Corp. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 34852. Sample Nos. 22348-L, 47071-L.)**

**INFORMATION FILED:** April 8, 1953, Eastern District of Oklahoma, against the Durant Cotton Oil & Peanut Corp., Durant, Okla.

**ALLEGED SHIPMENT:** On or about October 17 and November 12, 1952, from the State of Oklahoma into the State of Texas.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the soybeans from which the article had been prepared contained insects and insect fragments;



and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 2, 1953. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$500.

**20644. Adulteration and misbranding of table and cooking oil. U. S. v. V. Formusa Co., Peter L. Formusa, and Joseph Formusa. Pleas of nolo contendere. Fine of \$250 against company and \$100 against each individual, plus costs. (F. D. C. No. 34353. Sample Nos. 33219-L, 33363-L, 33364-L.)**

**INFORMATION FILED:** May 15, 1953, Northern District of Illinois, against the V. Formusa Co., a corporation, Chicago, Ill., Peter L. Formusa, president and treasurer of the corporation, and Joseph Formusa, who was in charge of the manufacturing operations of the corporation.

**ALLEGED SHIPMENT:** On or about March 12, 1951, and March 25 and 27, 1952, from the State of Illinois into the States of Michigan and Wisconsin.

**LABEL, IN PART:** "Marconi Brand Contains 75% Cottonseed Oil 20% Olive Oil 5% Peanut Oil Packed by V. Formusa Co. Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent of the article, namely, olive oil, had been in whole or in part omitted from the article; and, Section 402 (b) (2), a mixture of corn oil and peanut oil, with little or no olive oil, had been substituted for a blend of 75 percent cottonseed oil, 20 percent olive oil, and 5 percent peanut oil, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Contains 75% Cottonseed Oil 20% Olive Oil" was false and misleading since the article contained a mixture of corn oil and peanut oil, with no cottonseed oil and little or no olive oil.

**DISPOSITION:** December 9, 1953. The defendants having entered pleas of nolo contendere, the court fined the company \$250 and each individual \$100, plus costs.

## POULTRY

**20645. Adulteration of dressed poultry. U. S. v. Vermont Poultry Outlet, Inc., Ned H. Pettengill, and Philip Kratky. Pleas of guilty. Fine of \$200 against corporation and \$100 against each individual. (F. D. C. No. 35176. Sample Nos. 45314-L, 45327-L.)**

**INFORMATION FILED:** August 28, 1953, District of Vermont, against Vermont Poultry Outlet, Inc., South Royalton, Vt., Ned H. Pettengill, president of the corporation, and Philip Kratky, treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about April 1 and July 9, 1953, from the State of Vermont into the State of Massachusetts.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article contained in one of the shipments consisted in part of a filthy substance by reason of the presence of fecal matter and crop material; and, Section 402 (a) (5), the article contained in both shipments was in part the product of a diseased animal, namely, diseased poultry.

**DISPOSITION:** November 2, 1953. Pleas of guilty having been entered by the defendants, the court fined the corporation \$200 and each individual \$100.

**20646. Adulteration of dressed poultry. U. S. v. Ace Poultry Co., Inc., and Ross J. Cardinal. Pleas of guilty. Fine of \$50 against each defendant. (F. D. C. No. 33856. Sample Nos. 26320-L, 26321-L.)**

**INFORMATION FILED:** March 11, 1953, District of Delaware, against Ace Poultry Co., Inc., Wilmington, Del., and Ross J. Cardinal, secretary-treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about July 22 and 23, 1952, from the State of Delaware into the States of Pennsylvania and New Jersey.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed poultry; and, Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased poultry, and in part the product of an animal, namely, poultry, which had died otherwise than by slaughter.

**DISPOSITION:** December 2, 1953. The defendants having entered pleas of guilty, the court fined each defendant \$50.

**20647. Misbranding of canned spaghetti and chicken livers. U. S. v. 9 Cases \* \* \*. (F. D. C. No. 34715. Sample No. 19673-L.)**

**LIBEL FILED:** February 20, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 3, 1952, by the Badger Fruit & Extract Co., from Kenosha, Wis.

**PRODUCT:** 9 cases, each containing 12 cans, of spaghetti and chicken livers at St. Paul, Minn.

**LABEL, IN PART:** (Can) "Net Weight 3 Lbs. 4 Ozs. Cloverblossom \* \* \* Spaghetti & Chicken Livers."

**NATURE OF CHARGE:** Misbranding. Section 403 (a), the name "Spaghetti & Chicken Livers" was false and misleading as applied to the article, which contained chicken organs which were not livers; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Net Weight 3 Lbs. 4 Ozs." was inaccurate. (The article was short weight.)

**DISPOSITION:** June 19, 1953. Default decree of condemnation. The court ordered that the product be turned over to a charitable institution.

## **VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE**

**20648. Adulteration and misbranding of Savita and wheat germ. U. S. v. Battle Creek Food Co. Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 33736. Sample Nos. 10546-L, 10548-L.)**

**INFORMATION FILED:** December 5, 1952, Eastern District of Michigan, against the Battle Creek Food Co., a corporation, Battle Creek, Mich.

**ALLEGED SHIPMENT:** On or about March 5, 1952, from the State of Michigan into the State of Illinois.

**LABEL, IN PART:** "Battle Creek Savita" and "Battle Creek Wheat Germ."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents had been in part omitted from the articles, namely, vitamin B<sub>1</sub> and iron from the Savita and vitamin B<sub>1</sub> and vitamin B<sub>2</sub> from the wheat germ.

Misbranding, Section 403 (a), certain statements on the labels of the articles were false and misleading. The label of the Savita represented and



suggested that an average teaspoonful (10 grams) would furnish 350 U. S. P. units of vitamin B<sub>1</sub> and 10 milligrams of iron and would supply 100 percent of the minimum daily adult requirements for vitamin B<sub>1</sub> and iron. An average teaspoonful of the Savita would furnish less vitamin B<sub>1</sub> and iron than represented and would supply less than 100 percent of the minimum daily adult requirements for vitamin B<sub>1</sub> and iron. The label of the wheat germ represented and suggested that the article contained, per ounce, .31 milligram of vitamin B<sub>1</sub> and .23 milligram of vitamin B<sub>2</sub>; that 1 ounce of the article would supply 80 percent of the minimum daily requirement of vitamin B<sub>1</sub> for a child from 1 to 6 years of age; that 1½ ounces of the article would supply 62 percent of the minimum daily requirement of vitamin B<sub>1</sub> for a child from 6 to 12 years of age; and that 2 ounces of the article would supply .81 percent of the adult minimum daily requirement for vitamin B<sub>1</sub> and 23 percent of the adult minimum daily requirement for vitamin B<sub>2</sub>. The wheat germ contained less vitamin B<sub>1</sub> and vitamin B<sub>2</sub> than represented and would supply smaller percentages of the minimum daily requirements for vitamin B<sub>1</sub> and vitamin B<sub>2</sub> than represented.

**DISPOSITION:** September 11, 1953. The defendant having entered a plea of nolo contendere, the court fined it \$1,000.

**20649. Adulteration and misbranding of calcium phytate tablets and misbranding of various articles of drug. U. S. v. Inorganic Bioelements, Inc., and John F. Wischhusen. Pleas of nolo contendere. Fine of \$300 against each defendant. (F. D. C. No. 33751. Sample No. 18773-L.)**

**INFORMATION FILED:** January 13, 1953, Northern District of Ohio, against Inorganic Bioelements, Inc., Cleveland, Ohio, and John F. Wischhusen, a director of the corporation.

**ALLEGED SHIPMENT:** On or about March 13, 1951, from the State of Ohio into the State of Iowa.

**LABEL, IN PART:** "Calcium IBI Phytate Calcium-Inositol-Hexaphosphate \* \* \* Designed to Correct and Prevent Relative Deficiencies and their Consequences Each Tablet Contains 7½ Grains Calcium Phytate, Flavored."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, calcium phytate, had been in part omitted from the article.

Misbranding, Section 403 (a), certain statements in an invoice dated March 13, 1951, accompanying the article, were false and misleading. The statements represented and suggested that the article would be adequate and effective in the prevention and treatment of polio and would effect steady improvement in the general health of the user. The article would not be adequate and effective in the prevention and treatment of polio and would not effect steady improvement in the general health of the user. Further misbranding, Section 403 (a), the label statements "Each Tablet Contains 7½ Grains Calcium Phytate \* \* \* One Tablet furnishes approximately one-fourth of the daily minimum requirements for Calcium and Phosphorous for children as well as adults" were false and misleading since each tablet of the article contained less than 7½ grains of calcium phytate and each tablet would furnish less than one-fourth of the minimum daily requirements of the body for calcium and phosphorus.

The article, together with certain other articles, was alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4133.

DISPOSITION: May 15, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$300.

20650. Adulteration and misbranding of vitamin capsules. U. S. v. 456 Bottles \* \* \*. (F. D. C. No. 35289. Sample No. 44885-L.)

LIBEL FILED: June 1, 1953, District of Connecticut.

ALLEGED SHIPMENT: On or about March 12, 1952, from Worcester, Mass.

PRODUCT: Vitamin capsules. 456 bottles, each containing 100 capsules, at Hartford, Conn. Analysis showed that the product contained 74 percent of the declared amount of vitamin B<sub>1</sub>.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements "Each Capsule Contains: \* \* \* Vitamin B<sub>1</sub> . . . . 2.5 mg. \* \* \* Each capsule contains 1¼ times the minimum daily adult requirement for Vitamin \* \* \* and 2½ times that for B<sub>1</sub>" were false and misleading as applied to the article, which contained less than the declared amount of vitamin B<sub>1</sub>.

The article was adulterated and misbranded in the above respects while held for sale after shipment in interstate commerce.

DISPOSITION: July 6, 1953. Brewer & Co., Inc., Worcester, Mass., claimant, having consented to the entry of a decree, judgment of condemnation and destruction was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 20601 TO 20650

PRODUCTS

	N. J. No.		N. J. No.
Apple juice, concentrated-----	<sup>1</sup> 20634	Flour-----	20601-20604
Apricots, canned-----	20632	Fruits and vegetables-- <sup>1</sup> <sup>4</sup>	20632-20639
Black-eyed peas, dried-----	20635	fruit, canned-----	20632, 20633
Butter-----	20612-20620	miscellaneous fruit prod-	
Calcium phytate tablets-----	20649	ucts-----	20635-20637
Cereals and cereal products-- <sup>2</sup>	20601-	tomatoes and tomato prod-	
	20611	ucts----- <sup>4</sup>	20638, 20639
Cheese-----	20621, 20622	vegetables and vegetable prod-	
muenster-----	20623	ucts-----	20635-20637
Chickpeas, ground, roasted-----	20636	Garbanzos. See Chickpeas.	
Cocktails, crab and shrimp---- <sup>3</sup>	20629	Livers, chicken, with spaghetti,	
Crab cocktail----- <sup>3</sup>	20629	canned-----	20647
Crabmeat-----	20630, 20631	Macaroni and noodle prod-	
Dairy products-----	20612-20623	ucts----- <sup>2</sup>	20605, 20606
Egg(s), frozen-----	20625	Mackerel, jack, canned-----	20626
yolks, frozen-----	20624	Mix, bakery-----	20611
Fats. See Oils and fats.		Muenster cheese-----	20623
Fish and shellfish----- <sup>3</sup>	20626-20631	Noodles. See Macaroni and	
		noodle products.	

<sup>1</sup> (20634, 20642) Injunction issued.  
<sup>2</sup> (20605) Prosecution contested. Contains opinion of the court.  
<sup>3</sup> (20629) Action for criminal contempt dismissed.  
<sup>4</sup> (20638) Seizure contested.



	N. J. No.		N. J. No.
Nuts	<sup>5</sup> 20640, 20641	Soybean oil	<sup>1</sup> 20642, 20643
Oils and fats	<sup>1</sup> 20642-20644	Spaghetti. <i>See</i> Macaroni and noodle products.	
Peaches, canned	20633	Tomato(es), canned	<sup>4</sup> 20638
Peanuts, shelled	<sup>5</sup> 20640, 20641	puree	20639
Peas, black-eyed, dried	20635	Tuna, canned	20628
Pizza sauce	20639	Vegetables. <i>See</i> Fruits and vege- tables.	
Popcorn, unpopped	20607	Vinegar	<sup>1</sup> 20634
Poultry	20645-20647	Vitamin, mineral, and other products of special dietary significance	20648-20650
Relish, sweet	20637	Wheat germ	20648
Rice	20608-20610		
Salmon, canned	20627		
Savita	20648		
Shellfish. <i>See</i> Fish and shellfish.			
Shrimp cocktail	<sup>3</sup> 20629		

## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
A. & P. Tea Co.:		Brown Canning Co.:	
butter	20619	canned tomatoes	<sup>4</sup> 20638
Ace Poultry Co., Inc.:		Cardinal, R. J.:	
dressed poultry	20646	dressed poultry	20646
American Beauty Macaroni Co.:		Clarke, C. E., & Sons:	
egg noodles	20606	frozen eggs	20625
American Stores Co., Inc.:		Colony Foods. <i>See</i> Paley, Julius.	
butter	20612	Commander Larabee Milling Co.:	
Arleen Products:		flour	20604
sweet relish	20637	Confections, Inc.:	
Badger Fruit & Extract Co.:		unpopped popcorn	20607
canned spaghetti and chicken livers	20647	Conner, J. K.:	
Banquet Better Foods. <i>See</i> Nel- son-Ricks Creamery Co.		butter	20612
Battle Creek Food Co.:		Consolidated Grocers Corp.:	
Savita and wheat germ	20648	canned apricots	20632
Beatrice Foods Co.:		Dedomenico, Paskey:	
butter	20620	egg noodles, macaroni, and spaghetti	<sup>2</sup> 20605
Beaver Meadow Creamery, Inc.:		Delta Food Packers, Inc.:	
butter	20615	tomato puree and pizza sauce	20639
Blue Ribbon Coffees, Inc.:		Dunnet, C. W., & Co.:	
roasted ground chickpeas	20636	butter	20614, 20617, 20618
Bohlig, E. M.:		Durant Cotton Oil & Peanut Corp.:	
butter	20614	crude soybean oil	20643
Breakstone Bros., Inc.:		Fall, Floyd:	
butter	20612	unpopped popcorn	20607
Broughton, E. J.:		Farmers Cotton & Peanut Co., Inc.:	
shelled peanuts	<sup>5</sup> 20640	shelled peanuts	<sup>5</sup> 20640

<sup>1</sup> (20634, 20642) Injunction issued.<sup>2</sup> (20605) Prosecution contested. Contains opinion of the court.<sup>3</sup> (20629) Action for criminal contempt dismissed.<sup>4</sup> (20638) Seizure contested.<sup>5</sup> (20640) Prosecution contested.

	N. J. No.		N. J. No.
Flake, Alvin:		Martinez, G. R.:	
crab cocktail and shrimp		dried black-eyed peas-----	20635
cocktail -----	<sup>3</sup> 20629	Mountain States Creamery Co.:	
Formusa, Joseph, and P. L.:		butter -----	20616
table and cooking oil-----	20644	Nelson-Ricks Creamery Co.:	
Formusa, V., Co.:		cheese -----	20621, 20622
table and cooking oil-----	20644	Paley, Julius:	
Gilman Cooperative Creamery		sweet relish-----	20637
Association:		Pan-Pacific Fisheries, Inc.:	
butter-----	20614, 20617, 20618	canned jack mackerel-----	20626
Golden Grain Macaroni Co.,		Pettengill, N. H.:	
Inc.:		dressed poultry-----	20645
egg noodles, macaroni, and		Pickerington Creamery, Inc.:	
spaghetti -----	<sup>2</sup> 20605	butter -----	20613
Good, A. J.:		St. Martin Cooperative Creamery	
butter -----	20613	Association:	
Guaranty Coffee Co.:		butter -----	20619
roasted ground chickpeas-----	20636	Southern Cotton Oil Co.:	
Hamlin-Halferty Seafoods:		oil, soybean-----	<sup>1</sup> 20642
canned salmon-----	20627	peanuts, shelled-----	20641
Harp, O. G.:		Speas Co.:	
frozen egg yolks-----	20624	concentrated apple juice and	
Harp Foods Mfg. Co.:		vinegar -----	<sup>1</sup> 20634
frozen egg yolks-----	20624	Stanislaus Food Products Co.:	
Inorganic Bioelements, Inc.:		canned peaches-----	20633
calcium phytate tablets-----	20649	Statesville Flour Mills Co.:	
Kaikow, Abe:		flour -----	20602
sweet relish-----	20637	Strickler, Charles, & Sons:	
Kraft Foods Co. of Wis.:		sweet relish-----	20637
muenster cheese-----	20623	Taylor & Sledd, Inc.:	
Kratky, Philip:		tomato puree-----	20639
dressed poultry-----	20645	Vermont Poultry Outlet, Inc.:	
Lakeville Creamery Co. See		dressed poultry-----	20645
American Stores, Co., Inc.		Westmoreland, W. V.:	
Lewis, G. L., Crabmeat Plant:		soybean oil-----	<sup>1</sup> 20642
crabmeat -----	20630, 20631	Whitney & Co.:	
M. & S. Canning Co.:		canned tuna-----	20628
crab cocktail and shrimp cock-		Wischhusen, J. F.:	
tail -----	20629	calcium phytate tablets-----	20649
Manwaring, D. H.:			
cheese -----	20621, 20622		

## ERRATUM

F. N. J. 20326, p. 162. In first line of ALLEGED SHIPMENT change "1943" to "1953."

<sup>1</sup> (20634, 20642) Injunction issued.

<sup>2</sup> (20605) Prosecution contested. Contains opinion of the court.

<sup>3</sup> (20629) Action for criminal contempt dismissed.





# THE FEDERAL REGISTER

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U. S. Department of Health, Education, and Welfare

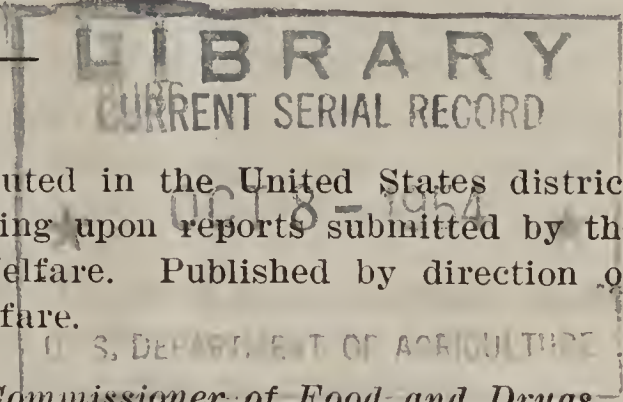
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20651-20700

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., August 24, 1954.

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20651. Adulteration of bread. U. S. v. Morris Erde, Inc., Samuel Erde, and Ben Erde.** Pleas of guilty. Fine of \$1,000 against corporation; sentence of 45 days in prison against each individual. (F. D. C. No. 34862. Sample Nos. 50828-L to 50830-L, incl.)

**INFORMATION FILED:** October 21, 1953, Eastern District of New York, against Morris Erde, Inc., Brooklyn, N. Y., Samuel Erde, president, and Ben Erde, vice president of the corporation.

**ALLEGED SHIPMENT:** On or about December 3 and 4, 1952, from the State of New York into the State of New Jersey.

**LABEL, IN PART:** "Mosha's Bread 100% Pure \* \* \* Morris Erde, Inc.  
\* \* \* Health Bread."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 27, 1953. The defendants having entered pleas of guilty, the court imposed a fine of \$1,000 against the corporation and sentenced each individual to serve 45 days in jail.

**20652. Adulteration of bread. U. S. v. Meadville Bread Co. and Roger L. Lane.** Plea of nolo contendere on counts 1 and 2 by company and plea of nolo contendere on count 2 by individual. Fine of \$500, plus costs, against company and fine of \$10 against individual. (F. D. C. No. 34845. Sample Nos. 8261-L, 8440-L.)

**INFORMATION FILED:** May 26, 1953, Western District of Pennsylvania, against the Meadville Bread Co., a corporation, Meadville, Pa., and Roger L. Lane, president of the corporation.

**ALLEGED SHIPMENT:** On or about April 25 and November 20, 1952, from the State of Pennsylvania into the State of New York.

**LABEL, IN PART:** "Flavo-Rite Vienna Bread [or "Cracked Wheat Bread"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 25, 1953. The company having entered a plea of nolo contendere to both counts of the information and the individual having entered a plea of nolo contendere to count 2 of the information relating to the cracked wheat bread, the court imposed a fine of \$500, plus costs, against the company and a fine of \$10 against the individual.

**20653. Adulteration of seafood breading and cracker meal. U. S. v. 16 Cases, etc.** (F. D. C. No. 35434. Sample Nos. 70402-L, 70403-L.)

**LIBEL FILED:** July 22, 1953, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about July 3 and 8, 1953, by Dinner Bell Foods, from St. Louis, Mo.

**PRODUCT:** 16 cases, each containing 6 10-pound bags, of seafood breading, and 10 sacks, each containing 100 pounds, of cracker meal, at Louisville, Ky.



**LABEL, IN PART:** "Leo's Delicious Sea Food Breeding" and "Dinner Bell Product No. X."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect parts, and rodent hair fragments; and, Section 402 (a) (4), the articles were held under insanitary conditions whereby they may have been contaminated with filth.

**DISPOSITION:** August 18, 1953. Dinner Bell Foods, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the articles be delivered to a charitable institution, for use as animal feed.

### FLOUR

**20654. Adulteration of rye flour and rye meal. U. S. v. J. T. Lampman & Co. and Armour C. Miller. Pleas of guilty. Fine of \$2 against company and \$1,000 against individual. (F. D. C. No. 31577. Sample Nos. 23740-L, 24734-L.)**

**INFORMATION FILED:** August 4, 1953, Southern District of New York, against J. T. Lampman & Co., a partnership, Claverack, N. Y., and Armour C. Miller, a partner in the partnership.

**ALLEGED SHIPMENT:** On or about May 25, 1951, by Armour C. Miller, doing business under the firm name of J. T. Lampman & Co., from Claverack, N. Y., to New Haven, Conn., of a quantity of rye flour; and on or about June 29, 1951, by J. T. Lampman & Co. and Armour C. Miller, from Claverack, N. Y., to Bridgeport, Conn., of a quantity of rye meal.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of rodent hair fragments, rodent excreta, and insect fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** December 17, 1953. Pleas of guilty having been entered, the court fined the company \$2 and the individual \$1,000.

**20655. Adulteration of flour. U. S. v. Voigt Milling Co. and Ralph A. Voigt. Pleas of guilty. Company fined \$1,000 and placed on probation for 1 year. No sentence imposed against individual. (F. D. C. No. 35150. Sample Nos. 54120-L, 54868-L.)**

**INFORMATION FILED:** October 22, 1953, Western District of Michigan, against the Voigt Milling Co., a corporation, Grand Rapids, Mich., and Ralph A. Voigt, president and treasurer of the corporation.

**ALLEGED SHIPMENT:** On or about February 4 and 11, 1953, from the State of Michigan into the States of Wisconsin and Illinois.

**LABEL, IN PART:** "Voigt Crescent Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** On November 2, 1953, the defendants entered pleas of guilty. On November 16, 1953, the court fined the company \$1,000 and placed it on probation for 1 year. No sentence was imposed against the individual.

**20656. Adulteration of flour. U. S. v. 36 Bags, etc.** (F. D. C. No. 33980. Sample Nos. 16647-L to 16649-L, incl.)

**LIBEL FILED:** On or about October 3, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about June 10, July 14 and 31, and August 11, 1952, from Wichita and Salina, Kans.

**PRODUCT:** 36 100-pound bags, 38 50-pound bags, and 30 25-pound bags of flour at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 19, 1952. Default decree of destruction. The decree was amended to provide for delivery of the product to a county institution, for use as hog feed.

**20657. Adulteration of flour. U. S. v. 10 Bags \* \* \*.** (F. D. C. No. 33885. Sample No. 2243-L.)

**LIBEL FILED:** September 25, 1952, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about August 1 and 7, 1952, from Springfield, Ill.

**PRODUCT:** 10 100-pound bags of flour at Gainesville, Fla. .

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20658. Adulteration of flour and cornmeal. U. S. v. 39 Bales, etc. (and 3 other seizure actions).** (F. D. C. No. 35302. Sample Nos. 72336-L to 72339-L, incl.)

**LIBELS FILED:** June 29, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 3, 1952, and January 2 and 28 and April 7, 1953, from Akron, Ohio, and from Hays, Wichita, Cherryvale, and Arkansas City, Kans.

**PRODUCT:** 39 bales, each containing 10 5-pound bags, of cornmeal, 33 50-pound bags of flour, and 826 25-pound bags of flour at Bluefield, W. Va., in the possession of Sublette Feed & Supply Co., Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, rodent excreta, rodent urine, and insects; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 17, 1953. Sublette Feed & Supply Co., Inc., claimant, having admitted that the products were adulterated, judgments of condemnation were entered and the court ordered that the products be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.



## MISCELLANEOUS CEREALS

**20659. Adulteration of shelled yellow corn. U. S. v. 1 Carload \* \* \*. (F. D. C. No. 35415. Sample No. 65724-L.)**

**LIBEL FILED:** September 8, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 25, 1953, by the N. E. Burke Elevator Co., from Riceville, Iowa.

**PRODUCT:** One carload of 120,000 pounds of shelled yellow corn at Chicago, Ill. Examination showed that the bottom of the car was plugged with 47 percent musty corn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of musty corn.

**DISPOSITION:** September 10, 1953. James P. Ryan, Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into a commercial solvent, under the supervision of the Department of Health, Education, and Welfare.

**20660. Adulteration of rice. U. S. v. 16 Bags \* \* \*. (F. D. C. No. 35491. Sample No. 56123-L.)**

**LIBEL FILED:** September 21, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about May 22, 1953, from New Orleans, La.

**PRODUCT:** 16 100-pound bags of rice at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

## CHOCOLATE, SUGAR, AND RELATED PRODUCTS

## COCOA

**20661. Adulteration and misbranding of cocoa. U. S. v. Samuel Feinberg (Clinton Chocolate Co.). Plea of guilty. Fine \$500. (F. D. C. No. 34302. Sample Nos. 6404-L, 6405-L, 38026-L, 38027-L.)**

**INFORMATION FILED:** March 6, 1953, District of Massachusetts, against Samuel Feinberg, trading as the Clinton Chocolate Co., Boston, Mass.

**ALLEGED VIOLATION:** Between the approximate dates of February 8 and March 4, 1952, while a quantity of cocoa was being held for sale at the Clinton Chocolate Co., after shipment in interstate commerce, the defendant caused flour to be mixed with the cocoa and caused such mixture to be packed into bags labeled as described below, which acts resulted in the cocoa in the bags being adulterated and misbranded.

Between the approximate dates of February 13 and March 4, 1952, the defendant caused to be introduced and delivered for introduction into interstate commerce, for delivery to New York, N. Y., a quantity of cocoa which was adulterated and misbranded.

**LABEL, IN PART:** "Harvard Brand Cocoa Distributed by J. F. Braun & Son Inc. New York N. Y." or "North Star Cocoa Clinton Chocolate Co."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), flour had been substituted in part for cocoa; and, Section 402 (b) (4), flour had been added to the article and mixed and packed with it so as to increase its bulk and weight.

Misbranding, Section 403 (g) (1), the article purported to be and was represented as cocoa, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard since it contained flour, which is not permitted as an optional ingredient of cocoa in such definition and standard.

**DISPOSITION:** July 21, 1953. The defendant having entered a plea of guilty, the court fined him \$500.

### CONFECTIONERY

**20662. Misbranding of Raspberry Tweet. U. S. v. 24 Cartons\* \* \*. (F. D. C. No. 34654. Sample No. 44606-L.)**

**LABEL FILED:** February 5, 1953, District of Maine.

**ALLEGED SHIPMENT:** On or about December 22, 1952, by Tweet, Inc., from Cambridge, Mass.

**PRODUCT:** 24 cartons, each containing 12 7½-ounce jars, of Raspberry Tweet at Gardiner, Maine.

**LABEL, IN PART:** (Jar) "Raspberry Tweet For A Treat Super Whipped Marshmallow Contains corn syrup, dextrose, fresh and dried egg whites, salt, artificial flavoring and color."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the word "Raspberry" and the vignette on the label depicting two clusters of red raspberries were false and misleading since they created the impression that the product contained red raspberries. (Examination disclosed that the product was artificially colored and flavored marshmallow.)

**DISPOSITION:** May 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution.

### SIRUP

**20663. Adulteration and misbranding of sorghum sirup and cane sirup. U. S. v. Leroy Morehead. Plea of guilty. Fine, \$50. (F. D. C. No. 32820. Sample Nos. 34202-L, 34203-L.)**

**INFORMATION FILED:** October 22, 1952, Southern District of Mississippi, against Leroy Morehead, Conehatta, Miss.

**ALLEGED SHIPMENT:** On or about November 11, 1951, from the State of Mississippi into the State of Tennessee.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a substance consisting of a blend of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum, and a substance consisting of a blend of cane sirup and corn sirup had been substituted for cane sirup.

Misbranding, Section 403 (b), the articles were offered for sale under the names of other foods, namely, sorghum and cane sirup; Section 403 (e) (1) and (2), the articles failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the articles were fabricated



from two or more ingredients, and they failed to bear a label containing the common or usual name of each such ingredient.

**DISPOSITION:** September 21, 1953. The defendant having entered a plea of guilty, the court fined him \$50.

## SUGAR

**20664. Adulteration of sugar. U. S. v. 8 Bags, etc.** (F. D. C. No. 35507. Sample Nos. 62747-L, 62748-L.)

**LIBEL FILED:** September 24, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about December 5, 1952, and August 8, 1953, from Reserve, La.

**PRODUCT:** 8 100-pound bags and 140 25-pound bags of sugar at Forrest City, Ark., in the possession of the Forrest City Grocery Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

## DAIRY PRODUCTS

### BUTTER

**20665. Adulteration of butter. U. S. v. 459 Boxes (27,540 pounds) \* \* \*.** (F. D. C. No. 35541. Sample No. 58967-L.)

**LIBEL FILED:** June 5, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about May 23, 1953, by the Rice Lake Creamery Co., from Rice Lake, Wis.

**PRODUCT:** 459 60-pound boxes of butter at Chicago, Ill.

**LABEL, IN PART:** "The Great A & P Tea Co. Distributor Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 18, 1953. The Rice Lake Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the reworking of the portion of the product which contained less than 80 percent of milk fat, under the supervision of the Department of Health, Education, and Welfare.

**20666. Adulteration of butter. U. S. v. 51 Boxes (3,264 pounds) \* \* \*.** (F. D. C. No. 35540. Sample No. 45324-L.)

**LIBEL FILED:** June 8, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about May 27, 1953, by the Lynn County Farmers Mutual Creamery Association, from Coggon, Iowa.

**PRODUCT:** 51 64-pound boxes of butter at Cambridge, Mass.

**LABEL, IN PART:** "Butter Distributed by Watts & Sons New York."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 29, 1953. Llewellyn Watts, Jr., doing business as Watts & Sons, New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

**20667. Adulteration of butter. U. S. v. 29 Fiber Cartons (1,972 pounds) \* \* \*.**  
(F. D. C. No. 35542. Sample No. 64355-L.)

**LIBEL FILED:** June 2, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about May 26, 1953, by the Polson Creamery, from Polson, Mont.

**PRODUCT:** 29 fiber cartons, each containing 1 68-pound cube, of butter at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 15, 1953. The Polson Creamery, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning under the supervision of the Department of Health, Education, and Welfare.

**20668. Adulteration of butter. U. S. v. 17 Boxes (1,105 pounds) \* \* \*.** (F. D. C. No. 35543. Sample No. 64855-L.)

**LIBEL FILED:** June 5, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 2, 1953, by the Lakeland Farmers Creamery Co., from Grand Rapids, Minn.

**PRODUCT:** 17 65-pound boxes of butter at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** June 29, 1953. The H. C. Christians Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking under the supervision of the Department of Health, Education, and Welfare.

### CHEESE

**20669. Misbranding of cheddar cheese. U. S. v. 210 Cartons \* \* \*.** (F. D. C. No. 35352. Sample No. 55861-L.)

**LIBEL FILED:** July 8, 1953, Western District of Pennsylvania; libel amended July 24, 1953.

**ALLEGED SHIPMENT:** On or about June 16, 1953, by Minerva Dairy, Inc., from Minerva, Ohio.

**PRODUCT:** Cheddar cheese. 210 cartons, each containing 4 cheddar cheeses, at Carnegie, Pa.

**LABEL, IN PART:** "Pasteurized (Longhorn) Cheddar Cheese."



**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Pasteurized" was false and misleading as applied to the article, which was made from milk which had not been pasteurized.

Further misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for cheddar cheese since milk used in the manufacture of the article had not been pasteurized and the article had not been cured at a temperature of not less than 35° F. for a period of not less than 60 days. The definition and standard provide that if the milk used in the manufacture of cheddar cheese is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F. for a period of not less than 60 days.

Further misbranding, Section 403 (g) (1), the article failed also to conform to the definition and standard of identity for cheddar cheese since it contained in its solids less than 50 percent of milk fat, the minimum permitted by the definition and standard.

**DISPOSITION:** July 28, 1953. Minerva Dairy, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare.

## FISH AND SHELLFISH

**20670. Adulteration of frozen winter carp (buffalo fish). U. S. v. 421 Pounds \* \* \*. (F. D. C. No. 35385. Sample No. 50115-L.)**

**LIBEL FILED:** August 18, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 10 and 18, 1953, from Rosedale, La., and Vicksburg, Miss.

**PRODUCT:** 421 pounds of frozen winter carp (buffalo fish) at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 9, 1953. Default decree of condemnation and destruction.

**20671. Adulteration of crabmeat. U. S. v. 17 Cans, etc. (F. D. C. No. 35548. Sample Nos. 72292-L, 72293-L.)**

**LIBEL FILED:** August 10, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about August 4, 1953, by the Fulton Fish Co., from Jacksonville, Fla.

**PRODUCT:** 63 1-pound cans of crabmeat at Washington, D. C.

**LABEL, IN PART:** (Can) "Atlantic Pride Seafoods Deluxe [or "Backfin"] Crab Meat."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

**DISPOSITION:** August 28, 1953. Default decree of condemnation. The court ordered that the product be destroyed or that it be delivered to the National Zoological Park for its use but not for sale.

**20672. Adulteration of crabmeat.** U. S. v. 17 Cans \* \* \*. (F. D. C. No. 35550. Sample No. 59766-L.)

**LIBEL FILED:** August 10, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about August 2, 1953, by the Fulton Fish Co., from Jacksonville, Fla.

**PRODUCT:** 17 1-pound cans of crabmeat at Atlanta, Ga.

**LABEL, IN PART:** (Can) "Atlantic Pride Seafoods \* \* \* Backfin [or "Deluxe" or "Lump"] Crab Meat."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

**DISPOSITION:** September 15, 1953. Default decree of condemnation and destruction.

**20673. Adulteration of frozen shrimp.** U. S. v. 125 Cases \* \* \*. (F. D. C. No. 35371. Sample No. 55483-L.)

**LIBEL FILED:** August 1, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about July 15, 1953, by the Shapiro Fisheries Co., from Chicago, Ill.

**PRODUCT:** 125 cases, each containing 10 5-pound cartons, of frozen shrimp at Utica, N. Y.

**LABEL, IN PART:** (Cartons) "Sunny Isle Brand Frozen Fresh Shrimp," "Laguna Frozen Fresh Headless Shrimp," "Shap Brand Shrimp Frozen Fresh," or "T. N. T. Tasty'N Tender Seafoods Frozen Fresh Shrimp"; (cases) "Durno A Product of Mexico," or "Packed for Texas Fishermen's Co-Operative Association, Inc. Aransas, Tex."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** August 6, 1953. The Shapiro Fisheries Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 4,910 pounds of the product were found unfit and were denatured and were packed into boxes labeled "Frozen Bait Shrimp Unfit for Human Consumption."

**20674. Adulteration of frozen breaded shrimp.** U. S. v. 73 Cases \* \* \*. (F. D. C. Nos. 35456, 35457. Sample Nos. 47529-L to 47531-L, incl.)

**LIBEL FILED:** August 14, 1953, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about May 2, 1953, from Miami, Fla.

**PRODUCT:** 73 cases, each containing 24 10-ounce packages, of frozen breaded shrimp at Houston, Tex.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 23, 1953. Default decree of condemnation and destruction.



**FRUITS AND VEGETABLES****CANNED FRUIT**

**20675. Adulteration of canned applesauce. U. S. v. 86 Cases \* \* \*. (F. D. C. No. 35486. Sample No. 61500-L.)**

**LIBEL FILED:** September 14, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about August 5, 1953, from Sebastopol, Calif.

**PRODUCT:** 86 cases, each containing 24 1-pound, 1-ounce cans, of applesauce at Oklahoma City, Okla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed applesauce. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 16, 1953. Default decree of condemnation and destruction.

**20676. Misbranding of canned cherries. U. S. v. 21 Cases \* \* \*. (F. D. C. No. 35687. Sample No. 69995-L.)**

**LIBEL FILED:** October 21, 1953, District of Wyoming.

**ALLEGED SHIPMENT:** On or about August 7, 1953, by the Utah Wholesale Grocery Co., from Salt Lake City, Utah.

**PRODUCT:** 21 cases, each containing 24 cans, of cherries at Rock Springs, Wyo.

**LABEL, IN PART:** (Can) "Leota Brand Red Sour Pitted Cherries Packed In Water Contents 1 Lb. 3 Oz. Packed by Varney Canning Inc. Plants Roy, Utah, and Veradale, Wash."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned pitted cherries since the article contained more than 1 pit in each 20 ounces of the cherries.

**DISPOSITION:** December 18, 1953. Varney Canning, Inc., claimant, having accepted service of the libel and authorized the entry of a final decree, judgment of condemnation was entered and the court ordered that the product be released to a local hospital.

**20677. Misbranding of canned peaches. U. S. v. 677 Cases \* \* \*. (F. D. C. No. 35400. Sample No. 82092-L.)**

**LIBEL FILED:** August 20, 1953, District of Kansas.

**ALLEGED SHIPMENT:** On or about July 10, 1953, by the Southern States Canning Co., from Fort Valley, Ga.

**PRODUCT:** 677 cases, each containing 24 cans, of peaches at Topeka, Kans.

**LABEL, IN PART:** (Can) "Contents 1 Lb. 13 Oz. Oak Hill Brand Yellow Freestone Peaches Halves In Heavy Syrup Packed in U. S. A. by Markham Bros. & Company Fort Valley Georgia."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peaches since the article contained peach halves weighing less than  $\frac{3}{8}$  ounce; the weight of the largest peach unit in the container of the article was more than twice the weight of the smallest peach unit therein; and all peach units of the article were not untrimmed or were so trimmed as not to preserve their normal shape; and the label failed to bear a statement that the article fell below the standard.

DISPOSITION: October 7, 1953. The Southern States Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### DRIED FRUIT

20678. Adulteration of prunes. U. S. v. 3 Boxes \* \* \*. (F. D. C. No. 35460. Sample No. 65410-L.)

LIBEL FILED: August 21, 1953, District of North Dakota.

ALLEGED SHIPMENT: On or about June 23, 1953, from San Jose, Calif.

PRODUCT: 3 boxes, each containing 12 2-pound packages, of prunes at Fargo, N. Dak.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy prunes. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 16, 1953. Default decree of condemnation and destruction.

20679. Adulteration of raisins. U. S. v. 9 Boxes \* \* \*. (F. D. C. No. 35492. Sample No. 56124-L.)

LIBEL FILED: September 21, 1953, Western District of New York.

ALLEGED SHIPMENT: On or about April 3, 1953, from Selma, Calif.

PRODUCT: 9 30-pound boxes of seedless raisins at Buffalo, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 21, 1953. Default decree of condemnation and destruction.

### VEGETABLES AND VEGETABLE PRODUCTS

20680. Misbranding of canned cut green beans. U. S. v. 38 Cases \* \* \*. (F. D. C. No. 35319. Sample No. 4646-L.)

LIBEL FILED: June 18, 1953, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about October 27, 1952, by I. N. Dovel Co., Inc., from Luray, Va.

PRODUCT: 38 cases, each containing 24 1-pound, 12-ounce cans, of cut green beans at Beckley, W. Va.

LABEL, IN PART: (Can) "Hawksbill Brand Cut Green Beans Cuts and Short Cuts With Kernels."

NATURE OF CHARGE: Misbranding, Section 403 (a), the vignette on the label of the article depicting a dish of string beans, predominantly cuts and short cuts, with few loose seeds was false and misleading as applied to the article, which consisted of string beans, the units of which were less than 1/2-inch in length, with a substantial amount of loose seeds.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cut green beans since the number



of cut bean units per 12 ounces of drained weight of the article exceeded 240; more than 25 percent by count of the total cut bean units of the article were less than ½-inch long per 12 ounces of drained weight; and the combined weight of loose seed and pieces of seed was more than 5 percent of the drained weight; and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: August 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**20681. Adulteration and misbranding of frozen lima beans. U. S. v. 696 Cases \* \* \*. (F. D. C. No. 35393. Sample No. 59538-L.)**

**LIBEL FILED:** August 17, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about July 16, 1953, by the Polar Cold Storage Co., from Nashville, Tenn.

**PRODUCT:** 696 cases, each containing 24 packages, of frozen lima beans at Atlanta, Ga.

**LABEL, IN PART:** (Package) "Thrif-T-Pak \* \* \* Net Wt. 10 Oz. frozen fresh \* \* \* Baby Lima Beans."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), dry soaked lima beans had been substituted in whole or in part for fresh lima beans.

Misbranding, Section 403 (a), the label designation "frozen fresh \* \* \* Baby Lima Beans" and the vignette on the label depicting baby lima beans of uniform green color were false and misleading as applied to frozen dry soaked lima beans which were medium size and nonuniform in color.

DISPOSITION: August 31, 1953. Thrif-T-Pak, Sweet Frost Co., Inc., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20682. Adulteration of frozen diced carrots. U. S. v. 384 Cases \* \* \*. (F. D. C. No. 35462. Sample No. 55167-L.)**

**LIBEL FILED:** August 24, 1953, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about May 1, 1953, by McMillan & Baase, from Rochester, N. Y.

**PRODUCT:** 384 28-pound cases of frozen diced carrots at Green Bay, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of sour carrots.

DISPOSITION: October 13, 1953. Default decree of condemnation and destruction.

**20683. Adulteration of olives with pimento. U. S. v. 174 Cases \* \* \*. (F. D. C. No. 35346. Sample No. 59107-L.)**

**LIBEL FILED:** July 6, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about March 9 and May 16, 1953, by the South Shore Packing Corp., from Vermilion, Ohio.

**PRODUCT:** 174 cases, each containing 12 5-ounce jars, of olives with pimento at East Point, Ga.

**LABEL, IN PART:** (Jar) "Salad Olives with Pimento South Shore."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and insect-damaged olives.

**DISPOSITION:** July 24, 1953. The South Shore Sales Co., Vermilion, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Department of Health, Education, and Welfare.

On August 13, 1953, the claimant having elected not to give bond or repossess the product, the court, with the consent of the claimant and the Government, entered an order directing that the product be destroyed.

**20684. Adulteration of olives with pimento. U. S. v. 2 Casks \* \* \*. (F. D. C. No. 35452. Sample No. 79066-L.)**

**LIBEL FILED:** August 6, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 12, 1953, by International Expeditors, Inc., from New York, N. Y.

**PRODUCT:** 2 casks of olives with pimento at Vermilion, Ohio.

**LABEL, IN PART:** "SSPC Net KCS 528 Size Broken Crop 1952 Francesco Gutherrez Calderon Ex Portador No. 90."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and insect-damaged olives.

**DISPOSITION:** September 16, 1953. Default decree of condemnation and destruction.

**20685. Misbranding of canned peas. U. S. v. 210 Cases \* \* \*. (F. D. C. No. 35348. Sample No. 43757-L.)**

**LIBEL FILED:** July 10, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about February 2, 1953, by the Umatilla Canning Co., from Milton, Oreg.

**PRODUCT:** 210 cases, each containing 6 cans, of peas at Sacramento, Calif.

**LABEL, IN PART:** (Can) "Hi-West Brand Sweet Peas \* \* \* Colored Sweet Peas Below Standard in Quality Artificially Colored Contents 6 Lbs. 9 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Vegetable Dye" was false and misleading as applied to the article, which was colored with coal-tar colors, namely, FD&C Blue No. 1 and FD&C Yellow No. 5.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas since the article was artificially colored, whereas the standard provides that canned peas of standard quality are normally colored, not artificially colored; and the label of the article failed to bear, in such manner and form as the standard specifies, a statement that the article fell below such standard. (The statement of substandard quality appeared inconspicuously on the side of the can label.)

**DISPOSITION:** October 15, 1953. The Umatilla Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.



20686. Misbranding of canned cooked dried peas. U. S. v. 35 Cases \* \* \*.  
(F. D. C. No. 35366. Sample No. 69133-L.)

LIBEL FILED: July 28, 1953, District of New Mexico.

ALLEGED SHIPMENT: On or about December 12, 1952, and June 15, 1953, by the Kimbell Food Products Co., from Fort Worth, Tex.

PRODUCT: 35 cases, each containing 48 cans, of cooked dried peas at Hobbs, N. Mex.

LABEL, IN PART: (Can) "Diamond Brand Early June Peas Prepared From Dry Stock Cooked Dried Early June Peas, Water, Sugar and Salt Added \* \* \* Contents 15½ Oz. Avoir."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peas, a food for which a definition and standard of identity has been prescribed by regulations; and the label of the article failed to bear, as required by the definition and standard, the name of the optional pea ingredient present in the article in that the pea ingredient present in the article consisted of dried peas of smooth-skin variety and was designated on the label of the article by the use of the words "Early June Peas." The definition and standard provide that the label for canned peas containing the pea ingredient present in the article shall name such pea ingredient by use of the words "Dried Early," "Dried June," or "Dried Early June," and that wherever the name "Peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words "Dried Early," "Dried June," or "Dried Early June," shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas because of high alcohol-insoluble solids, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: August 26, 1953. The Kimbell Food Products Co., claimant, having admitted the essential allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

20687. Adulteration of potatoes. U. S. v. 360 Bags, etc. (F. D. C. No. 35394. Sample Nos. 66186-L to 66189-L, incl.)

LIBEL FILED: August 26, 1953, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 16, 1953, by A. Shrier & Sons, from Jovista, Calif.

PRODUCT: 720 100-pound bags of potatoes at Chicago, Ill.

LABEL, IN PART: (Bag) "Linda Brand California Potatoes Packed by A. Shrier and Sons Delano, California Jasmin District."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: September 22, 1953. The Illinois Central Railroad Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

## TOMATOES AND TOMATO PRODUCTS

20688. Adulteration of canned tomatoes. U. S. v. 770 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 35663, 35664. Sample Nos. 57606-L, 72300-L.)

LIBELS FILED: September 24, 1953, District of Columbia.

ALLEGED SHIPMENT: On or about July 13 and August 5, 1953, by the Torsch Canning Co., from Milford, Del.

PRODUCT: 880 cases, each containing 24 cans, of tomatoes at Washington, D. C.

LABEL, IN PART: (Can) "Monitor Brand Tomatoes Contents 1 Lb."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: October 22, 1953. Default decrees of condemnation. The court ordered that the product be delivered to the National Zoological Park for its use and not for sale.

20689. Adulteration of tomato paste. U. S. v. 39 Cases \* \* \*. (F. D. C. No. 35370. Sample No. 49650-L.)

LIBEL FILED: August 11, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about May 26, 1953, by the Allied Cannery & Packers, from San Francisco, Calif.

PRODUCT: 39 cases, each containing 96 cans, of tomato paste at New York, N. Y.

LABEL, IN PART: (Can) "Gondola Brand California Tomato Paste With Basil Net Weight 6 Oz. or 170 Grams."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: October 16, 1953. Default decree of condemnation and destruction.

## OILS AND FATS

20690. Action to enjoin and restrain the interstate shipment of adulterated crude cottonseed oil and crude soybean oil. U. S. v. Mississippi Cottonseed Products Co. Consent decree of permanent injunction entered. (Inj. No. 264.)

COMPLAINT FILED: June 2, 1953, Southern District of Mississippi, against the Mississippi Cottonseed Products Co., a corporation having its principal place of business at Jackson, Miss., and operating plants under the names of the Greenville Oil Works at Greenville, Miss., and the Humphrey's County Oil Mill at Belzoni, Miss.

NATURE OF CHARGE: That the defendant was engaged in the manufacture and distribution of crude cottonseed oil and crude soybean oil and had been and was at the time of filing the complaint introducing and causing to be introduced into interstate commerce such articles which were adulterated within the meaning of Section 402 (a) (3) and (4) in that they consisted in part of filthy substances by reason of the presence of rodent and insect filth and by reason of the use of raw materials contaminated with rodent and insect filth,



and in that such articles had been and were being prepared and held at the defendant's plants under insanitary conditions whereby the articles may have become contaminated with filth; that the insanitary conditions in the defendant's plants resulted from the presence of dead mice, rodent excreta, rodent urine, insects, and insect fragments in and around places in the plants where the articles were manufactured, prepared, and held; and that the insanitary conditions resulted also from general carelessness whereby the articles in the plants were subjected to contamination.

The complaint alleged further that the defendant continued to introduce and caused to be introduced into interstate commerce crude cottonseed oil and crude soybean oil adulterated as described above, and alleged on information and belief that the defendant would continue to do so unless restrained.

**DISPOSITION:** June 23, 1953. The defendant having consented to the entry of a decree, an injunction was entered perpetually enjoining and restraining the defendant from introducing and causing to be introduced into interstate commerce crude cottonseed oil and crude soybean oil or any other such articles manufactured and prepared at defendant's plants and adulterated within the meaning of Section 402 (a) (3) and (4).

### OLEOMARGARINE

**20691. Interstate shipment of adulterated and misbranded oleomargarine and sale and offering for sale of colored oleomargarine. U. S. v. Alfred Silberman (Sunny Brook Dairy Co.). Plea of guilty. Fine \$400. (F. D. C. No. 33771. Sample No. 24221-L.)**

**INDICTMENT RETURNED:** April 22, 1953, Northern District of New York, against Alfred Silberman, trading as the Sunny Brook Dairy Co., Saratoga Springs, N. Y.

**NATURE OF CHARGE:** The defendant violated Section 301 (a), by the introduction into interstate commerce, at Saratoga Springs, N. Y., for delivery to Secaucus, N. J., of a quantity of colored oleomargarine represented as butter, which was adulterated under Section 402 (b) (2), in that colored oleomargarine had been substituted for butter, and which was misbranded under Section 403 (i) (1), in that the label of the article failed to bear the common or usual name of the article, namely, colored oleomargarine or colored margarine, and under Section 403 (i) (2), in that the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

The defendant violated also Section 301 (m) by causing to be sold and offered for sale a quantity of colored oleomargarine or colored margarine which was not labeled as required by Section 407 (b) (3) with (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on the label and (B) a statement of the ingredients contained in such colored oleomargarine or colored margarine.

**DISPOSITION:** December 10, 1953. The defendant having entered a plea of guilty, the court fined him \$400.

### SPICES, FLAVORS, AND SEASONING MATERIALS

**20692. Adulteration of coriander seed. U. S. v. 60 Bags \* \* \*. (F. D. C. No. 35643. Sample No. 51916-L.)**

**LIBEL FILED:** September 28, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** During the year 1951, from a foreign country.

**PRODUCT:** 60 bags, each containing 90 pounds, of coriander seed at Bronx, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 23, 1953. Default decree of condemnation and destruction.

**20693. Misbranding of Paprakene. U. S. v. 1 Drum \* \* \*. (F. D. C. No. 34917. Sample No. 49809-L.)**

**LIBEL FILED:** March 27, 1953. Southern District of New York.

**ALLEGED SHIPMENT:** On or about December 30, 1952, by Spicene Co. of America, Inc., from West New York, N. J.

**PRODUCT:** 1 drum of Paprakene at Bronx, N. Y. Examination showed that the product was salt, colored with annatto and cochineal color, and that it contained little or no oleoresin capsicum.

**LABEL, IN PART:** (Drum) "Paprakene Contents: Oleoresin Capsicum Annatto and other essential oils and extractions in a Sodium Chloride Carrier \* \* \* Net Weight 150# This Product Is Guaranteed To Comply With All Pure Food Laws and B. A. I. Regulations."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the oleoresin capsicum listed first in the ingredient statement was false and misleading as applied to a product which contained little, if any, oleoresin capsicum; and the label statement "This Product Is Guaranteed To Comply With All Pure Food Laws and B. A. I. Regulations" was false and misleading since the article did not comply with the Federal Food, Drug, and Cosmetic Act, and was a product which was not permitted to be used in plants operated under B. A. I. regulations.

Further misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since the statement "other essential oils and extractions in a Sodium Chloride Carrier" did not reveal the common or usual name of each ingredient of the article; and, Section 403 (k), the article contained artificial coloring, cochineal, and it failed to bear labeling stating that fact.

**DISPOSITION:** August 24, 1953. Default decree of condemnation and destruction.

**20694. Misbranding of Paprakene. U. S. v. 1 Drum \* \* \*. (F. D. C. No. 34892. Sample No. 49799-L.)**

**LIBEL FILED:** February 20, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about October 30, 1952, by Spicene Co. of America, Inc., from West New York, N. J.

**PRODUCT:** One drum containing 146 pounds of Paprakene at New York, N. Y. Examination showed that the product was salt, colored with annatto and cochineal color, and that it contained little or no oleoresin capsicum.

**LABEL, IN PART:** (Drum) "Paprakene Contents: Oleoresin Capsicum Annatto and other essential oils and extractions in a Sodium Chloride Carrier



\* \* \* This Product Is Guaranteed To Comply With All Pure Food Laws and B. A. I. Regulations."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the oleoresin capsicum listed first in the ingredient statement was false and misleading as applied to a product which contained little, if any, oleoresin capsicum; and the label statement "This Product Is Guaranteed To Comply With All Pure Food Laws and B. A. I. Regulations" was false and misleading since the article did not comply with the Federal Food, Drug, and Cosmetic Act, and was a product which was not permitted to be used in plants operated under B. A. I. regulations.

Further misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since the statement "other essential oils and extractions in a Sodium Chloride Carrier" did not reveal the common or usual name of each ingredient of the article; and, Section 403 (k), the article contained artificial coloring, cochineal, and it failed to bear labeling stating that fact.

**DISPOSITION:** April 22, 1953. Default decree of condemnation and destruction.

**20695. Misbranding of Paprakene. U. S. v. 1 Drum \* \* \*,** (F. D. C. No. 34747. Sample No. 56578-L.)

**LIBEL FILED:** March 12, 1953, Middle District of Tennessee.

**ALLEGED SHIPMENT:** On or about December 23, 1952, by Spicene Co. of America, Inc., from West New York, N. J.

**PRODUCT:** One drum of Paprakene at Nashville, Tenn. Examination showed that the article was salt, colored with annatto and cochineal color, and that it contained little or no oleoresin capsicum.

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the oleoresin capsicum listed first in the ingredient statement was false and misleading as applied to a product which contained little, if any, oleoresin capsicum; and the label statement "This Product Is Guaranteed To Comply With All Pure Food Laws and B. A. I. Regulations" was false and misleading since the article did not comply with the Federal Food, Drug, and Cosmetic Act, and was a product which was not permitted to be used in plants operated under B. A. I. regulations.

Further misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since the statement "other essential oils and extractions in a Sodium Chloride Carrier" did not reveal the common or usual name of each ingredient of the article; and, Section 403 (k), the article contained artificial coloring, cochineal, and it failed to bear labeling stating that fact.

**DISPOSITION:** May 22, 1953. Default decree of condemnation and destruction.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

**20696. Adulteration and misbranding of vitamin preparations. U. S. v. 32 Bottles, etc.** (F. D. C. No. 35273. Sample Nos. 39518-L, 39520-L to 39522-L, incl., 39525-L.)

**LIBEL FILED:** June 4, 1953, Southern District of California.

**ALLEGED SHIPMENT:** During 1951 and 1952, from Detroit, Mich.

**PRODUCT:** 32 100-capsule bottles of multiple vitamin capsules, 22 1-quart bottles of vitamins with iron in liquid form, 94 250-capsule bottles and 61 1,000-capsule bottles of vitamin B complex with iron capsules, and 29 1-quart bottles of malt with vitamins and iron in liquid form, at Glendale, Calif.

Examination showed that the multiple vitamin capsules contained 60 percent of the declared amount of vitamin D; that the vitamins with iron in liquid form contained 48 percent of the declared amount of vitamin B<sub>1</sub>; that the vitamin B complex with iron capsules contained from 70 to 73 percent of the declared amount of vitamin B<sub>1</sub>; and that the malt with vitamins and iron in liquid form contained 55 percent of the declared amount of vitamin B<sub>1</sub>.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, namely, vitamin D in the multiple vitamin capsules and vitamin B<sub>1</sub> in the other articles, had been in part omitted or abstracted from the articles.

Misbranding, Section 403 (a), the following statements on the labels of the articles were false and misleading: (multiple vitamin capsules) "Each capsule contains \* \* \* 1,200 U. S. P. Units Vitamin D," (vitamins with iron in liquid form and malt with vitamins and iron in liquid form) "Each fluidounce contains \* \* \* Vitamin B<sub>1</sub> \* \* \* 4 Mg.," and (vitamin B complex with iron capsules) "Six capsules supply \* \* \* Vitamin B<sub>1</sub> \* \* \* 6 Mgms."

The articles were adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 13, 1953. Default decree of condemnation and destruction.

**20697. Adulteration and misbranding of vitamin capsules. U. S. v. 295 Bottles \* \* \*. (F. D. C. No. 34954. Sample Nos. 70735-L, 70736-L.)**

**LIBEL FILED:** April 15, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 29, 1951, from Los Angeles, Calif.

**PRODUCT:** Vitamin capsules. 280 45-capsule bottles and 15 210-capsule bottles at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents had been in part omitted or abstracted from the article, namely, vitamin B<sub>1</sub> and vitamin C from the 280-bottle lot and the 15-bottle lot, vitamin B<sub>6</sub> and niacinamide from the 280-bottle lot, and riboflavin from the 15-bottle lot.

Misbranding, Section 403 (a), the following label statements were false and misleading as applied to both lots, which contained less than the declared amounts of vitamin B<sub>1</sub> and vitamin C; as applied to the 280-bottle lot, which contained less than the declared amounts of vitamin B<sub>6</sub> and niacinamide; and as applied to the 15-bottle lot, which contained less than the declared amount of vitamin B<sub>2</sub> (riboflavin): "Each Capsule \* \* \* Fortified With \* \* \* Vitamin B-1 \* \* \* 15,000 Mcg. (15 Mg.) Vitamin B-2 (Riboflavin) 6,000 Mcg. (6 Mg.) Vitamin B-6 \* \* \* 125 Mcg. (0.125 Mg.) Vitamin C \* \* \* 1,000 USP Units (50 Mg.) Niacinamide 10,000 Mcg. (10 Mg.)."

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 26, 1953. Default decree of condemnation and destruction.

**20698. Adulteration and misbranding of B-Amino Complex tablets. U. S. v. 27 Cartoned Bottles \* \* \*. (F. D. C. No. 34935. Sample No. 54112-L.)**

**LIBEL FILED:** April 7, 1953, Northern District of Illinois.



**ALLEGED SHIPMENT:** On or about September 18, 1952, by Universal Nutritions, from New York, N. Y., to Cleveland, Ohio, and from there transported on or about November 23, 1952, to Chicago, Ill., by a representative of a Chicago firm.

**PRODUCT:** 27 cartoned bottles of B-Amino Complex tablets at Chicago, Ill. A leaflet headed "If Your Body Could Talk It Would Say" was enclosed in each carton of the article. Analysis showed that 6 tablets of the article supplied not more than 4.8 milligrams of iron and not more than 11.2 milligrams of vitamin B<sub>1</sub>.

**LABEL, IN PART:** (Bottle) "100 Tablets B-Amino BAC Complex A brand of amino acids, coenzymes, vitamins and minerals Daily dose of 6 tablets contain: Vitamins Vitamin B<sub>1</sub> (Thiamine Hydrochloride) 18.0 mg. \* \* \* Di and Tri-Valent Minerals Iron (Ferric Citro Pyrophosphate Soluble) 28.8 mg. \* \* \* Unitone Corporation Distributor New York 13, N. Y."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and iron, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "6 tablets contain: \* \* \* Vitamin B<sub>1</sub> \* \* \* 18.0 mg. \* \* \* Iron \* \* \* 28.8 mg." was false and misleading as applied to the article, which contained less than 18.0 milligrams of vitamin B<sub>1</sub> and less than 28.8 milligrams of iron per 6 tablets. The article was misbranded in this respect while held for sale after shipment in interstate commerce.

Further misbranding, Section 403 (a), the labeling of the article, namely, the retail package labels and the above-mentioned leaflet, was false and misleading. The labeling represented and suggested that the article, when used as directed, would supply an important quantity of protein; that it was needed by the eyes, ears, lungs, liver, intestines, muscles, brain, heart, stomach, kidneys, and the entire body; that it would supply increased energy to the heart, lungs, muscles, liver, and other important organs; that it would supply missing enzymes necessary to carry on body functions, such as growth, reproduction, secretion, nerve condition, muscular contraction, etc.; that it would supply vitamins, proteins, and minerals in the correct proportion to stimulate the body to work as nature intended; that it would endow the user with vibrant life, health, and energy; that it would enable the liver to convert more than normal amounts of carbohydrates into energy; that it would transfer fatigue to quick energy; that it would prevent and correct disfunction in the energy conversion chemistry of body functioning; that it would reactivate all enzyme systems necessary for healthy body functioning; that it would activate the body cells to function as nature intended; and that it would supply needs that are missing from the food one eats. The article, when used as directed, would provide but a small fraction of one's normal consumption of protein; it was not capable of fulfilling the promises of benefit stated and implied; and it did not contain needed elements that are not available in commonly available foods. The article was misbranded in this respect when introduced into and while in interstate commerce.

Further misbranding, Section 403 (a), the following statements in the above-mentioned leaflet, namely, " 'Unbalanced B Vitamins May Be Dangerous' . . . . says The Journal of The American Medical Association in an Editorial of September 1, 1945. They say further . . . . 'Extensive scientific evidence has revealed that if B Vitamins are administered in other than balanced proportions, they may create Vitamin Deficiencies rather than cure them.' . . . .



still quoting the JAMA, the Editorial continues 'Many B-Complex preparations available to the physician and public today are definitely unbalanced . . . . either too much thiamine or not enough riboflavin, niacin, or pyridoxine' " were false and misleading since the quotations did not appear in an editorial in the September 1, 1945, issue of the Journal of the American Medical Association and since the article did not contain B vitamins in balanced proportions. The article was misbranded in this respect when introduced into and while in interstate commerce.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4173.

DISPOSITION: August 14, 1953. Default decree of condemnation and destruction.

**20699. Adulteration and misbranding of Raymor capsules. U. S. v. 4 Bottles, etc.**  
(F. D. C. No. 34879. Sample Nos. 33850-L, 66492-L to 66495-L, incl.)

LIBEL FILED: March 11, 1953, Eastern District of Michigan; amended libel filed March 23, 1953.

ALLEGED SHIPMENT: On or about November 1, 1951, December 3, 1952, and January 20 and 23, 1953, by the Raymor Food Products Co., from Chicago, Ill.

PRODUCT: 4 180-capsule bottles of Raymor No. 50 capsules, 50 50-capsule boxes and 11 100-capsule boxes of Raymor No. 9 capsules, 5 100-capsule bottles of Raymor No. 33 capsules, 11 60-capsule bottles of Raymor No. 44 capsules, and 20 90-capsule bottles of Raymor No. 47 capsules, at Jackson, Mich., together with a number of leaflets entitled "Professional Order Blank" and 1 copy each of 5 issues of a publication designated "Raymor Nutritional Review" distributed monthly by the Raymor Food Products Co. and dated March, May, June, November, and December, 1952.

LABEL, IN PART: "Raymor Number 50 180 Capsules 30 Day Supply Of A Dietary Supplement Composition—The recommended daily dosage of six capsules provides as follows: Ingredients \* \* \* % M. D. R.—Vitamin C (Ascorbic Ac.) 210.0 Milligrams 433% \* \* \* Iodine (KI) 0.45 Milligrams 450% \* \* \* Calcium (Bone phosphate) 950.0 Milligrams 125% Phosphorus (Bone Phosphate) 565 Milligrams 75%. The Purpose Of This Product Is Nutritional";

"Raymor Number 9 50 No. 0 Size Capsules \* \* \* each three capsules standardized to contain—Vitamin D (irrad. yeast) 400 U. S. P. Units Natural Bile Salts—Natural Bile Salts Pancreatin, Pepsin, Papain, Duodenum, for Enzyme activity; Pectin and Gel from Cranberry and edible Irish Moss seaweed; Alkaline Buffer from Lime salts; Calcium and Phosphorus from edible beef bone powder and the natural B-Complex from Liver substance, Wheat Germ Embryo and vegetable concentrates \* \* \* 3 capsules of Raymor No. 9, when taken daily, will provide 400 U. S. P. units of Vitamin D (full daily minimum requirement). The Purpose Of This Product Is Nutritional";

"Raymor \* \* \* Number 33 100 No. 0 size Capsules \* \* \* each three capsules standardized to contain Vitamin C (ascorbic acid) 750 Mgs. (equal to 15,000 U. S. P. Units) 25 times the Min. Daily Requirement Plus Protein Factors and Chromo-Proteins From Liver, Red Bone Marrow, Spleen, Stomach and Pancreas Substances; Iodine from Kelp; Calcium and Phosphorus from edible cooked Beef Bone and Lime Salts; Hypoallergenic Soy Lecithin and dried powdered Orange Concentrate. There is no scientific data that glandular material contained herein is medically or therapeutically active. Directions



One Capsule three times daily or as directed by your doctor as a supplement to the diet. The Purpose Of This Product Is Nutritional”;

“Raymor \* \* \* Number 44 60 Capsules \* \* \* Each three capsules contain Rutin 50.0 Mgs. Vitamin C (Ascorbic Ac.) 30.0 Mgs. Vitamin B<sub>1</sub> (thiamine) 1.5 Mgs. Niacinamide 45.0 Mgs. together with Magnesium Salts, Bile Salts, & B-Complex Vitamins from Liver Substance, Concentrated Yeast & Stabilized Germ of Wheat Three capsules contain 1½ times the minimum daily requirements of Vitamin B<sub>1</sub> and the full M. D. R. of Vitamin C Directions One capsule three times daily at mealtime or as directed by your doctor. The Purpose Of This Product Is Nutritional”;

“Raymor Number 47 90 Capsules \* \* \* Each six capsules standardized to contain % M. D. R.—Folic Acid 3.0 Milligrams Vitamin B<sub>12</sub> (Crystalline & Concentrate) 12.0 Micrograms Vitamin A (Natural Ester) 6,000.0 U. S. P. Units 150% Vitamin B<sub>1</sub> (Thiamine) 12.0 Milligrams 1200% Vitamin B<sub>2</sub> (Riboflavin) 5.0 Milligrams 300% Vitamin C (Ascorbic Acid) 60.0 Milligrams 200% Niacinamide (P. P. Factor) 90.0 Milligrams Ferrous Gluconate (110 mgs. elem. iron) 1,050.0 Milligrams 1100% Copper Peptonate 9.0 Milligrams 250% Manganese Hypophosphite 30.0 Milligrams Liver, Stomach & Hemoglobin (Desiccates) 900.0 Milligrams Amino Acid Salts 48.0 Milligrams. In a nutrient base containing copper chlorophyllin, red bone marrow substance, natural iodine from kelp and acid buffering mineral salts. \* \* \* Directions Two capsules taken three times daily at mealtime, or as directed by your doctor as a supplement to the diet. \* \* \* The Purpose Of This Product Is Nutritional.”

NATURE OF CHARGE: Raymor No. 50 capsules. Adulteration, Section 402 (b) (1), valuable constituents, calcium phosphorus, and vitamin C, had been in part omitted or abstracted from the article. Misbranding, Section 403 (a), the statements in the labeling of the article, namely, “The recommended daily dosage of 6 capsules provides as follows: \* \* \* Calcium \* \* \* 950.0 Milligrams 125% M. D. R.” and “Phosphorus \* \* \* 565 Milligrams 75% M. D. R.” were false and misleading since 6 capsules of the article provided less than 950 milligrams of calcium and less than 125 percent of the minimum daily requirement for calcium, and less than 565 milligrams of phosphorus and less than 75 percent of the minimum daily requirement for phosphorus; and the statements in the labeling of the article, namely, “The recommended daily dosage of 6 capsules provides as follows: \* \* \* Vitamin C (Ascorbic Ac.) 210.0 milligrams 433% M. D. R.” and “Raymor No. 50 \* \* \* A Multi-vitamin \* \* \* dietary supplement containing \* \* \* 210.0 mgs. C \* \* \* in the recommended daily dosage of 6 capsules” were false and misleading since 6 capsules of the article provided less than 210 milligrams of vitamin C (ascorbic acid) and less than 433 percent of the minimum daily requirement for vitamin C. Further misbranding, Section 403 (a), the labeling of the article consisting of the issues of the “Raymor Nutritional Review,” mentioned above, was also false and misleading. Such labeling when taken as a whole, as well as in the specific statements and read in the light of the setting in which such labeling was intended to be read, conveyed to the public a meaning which represented and suggested that the article was effective for successful growth and maintenance of health; that it was effective, by reason of its content of choline and inositol, for arteriosclerosis; by reason of its content of vitamin B<sub>12</sub>, for chronic dermatitis and chronic urticaria; by reason of its content of vitamin E, in the management of retrolental fibroplasia; for neurologic disturbances in diabetic sufferers; for psychogenic asthma; to prevent intravascular coagulation and nutritional breakdown; to



improve metabolism and cellular processes by replenishing all known deficiencies; to prevent and treat common chronic diseases—hypertension, diabetes, cancer, arthritis, degenerative diseases of the liver and kidneys, obesity, and cardiovascular-renal disease; arteriosclerosis, pain in rheumatoid arthritis, increased tendency for accidents caused by obesity, chronic physical and mental ill health, and congenital debility in infants; to accelerate wound healing and lessen the possibility of intercurrent infection; for “psychomatic” disorders of the heart, including irregularities of rhythm, unusual sensations about the heart such as oppression, tightening, pain, numbness, shortness of breath, feeling of faintness, weakness, and “all gone,” free perspiration and sinking sensation; to improve vision in senile muscular degeneration; by reason of its content of liver and vitamin B complex, to remedy diarrhea following use of antibiotics; by reason of its content of vitamins, minerals, and amino acids, to remedy lesions of the mouth; by reason of its content of liver, to remedy reproductive failure; to remedy nervous illness in elderly people; to prevent invalidism and senility in the aging, breaking down of older individuals and emotional stress and psychological changes in the aged, manifesting themselves in nervousness, depression, insomnia, and “a wide variety of somatic symptoms, difficulties in memory, irritability, insomnia, and a general feeling of apprehensiveness and restlessness”; to relieve elderly people from the stresses and strains of life produced through functional disturbances of nervous origin and anxiety as to organic illnesses; to exert a favorable influence upon the entire outlook of the consumer; to prolong the period of the consumer’s activity; by reason of its content of folic acid, for diarrhea and colitis; by reason of its vitamin B<sub>12</sub> content, for spastic paraplegia, spino-cerebral syndromes of the acromegaly type, cerebellar atrophy, and Korsakoff’s psychosis and early cases of polyneuritis when not associated with rheumatic disorders. The article was not effective for such purposes, and it was not capable of fulfilling the promises of benefit stated and implied. The Raymor No. 50 capsules were adulterated and misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

Raymor No. 9 capsules. Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content, and its label failed to bear, as required by the regulations, a statement of the amounts of the several vitamins of the vitamin B complex, and of calcium and phosphorus contained in the article, in the manner prescribed by the regulations.

Raymor No. 33 capsules. Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its mineral content, and its label failed to bear, as required by the regulations, a statement of the amounts of iodine, calcium, and phosphorus contained in the article, in the manner prescribed by the regulations.

Raymor No. 44 capsules. Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its vitamin content, and its label failed to bear, as required by the regulations, a statement of the amounts of the several vitamins of the vitamin B complex contained therein (other than vitamin B<sub>1</sub>), in the manner prescribed by the regulations.

Raymor No. 47 capsules. Misbranding, Section 403 (a), the labeling of the article which contained statements representing and suggesting that 6 capsules of the article containing 9 milligrams of copper peptonate provided



250 percent of the minimum daily requirement for that substance was misleading since such statements created the impression that a minimum daily requirement for copper peptonate has been established, whereas a minimum daily requirement for copper peptonate has not been established; and, Section 403 (j), the article purported to be and was represented for special dietary use by reason of its vitamin and mineral content, and its label failed to bear, as required by the regulations, a statement of the amount of iodine contained in the article and the statement "The need for folic acid, vitamin B<sub>12</sub>, and manganese hypophosphite in human nutrition has not been established," in the manner prescribed by the regulations.

Further misbranding, Section 403 (f), the information required by Section 403 (j) to appear on the label of the Raymor No. 9 capsules, No. 33 capsules, No. 44 capsules, and No. 47 capsules was not prominently placed thereon in such terms as to render such information likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The Raymor No. 9 capsules, No. 33 capsules, No. 44 capsules, and No. 47 capsules were misbranded in the above respects when introduced into and while in interstate commerce.

The Raymor No. 50 capsules were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4134.

DISPOSITION: May 25, 1953. Default decree of condemnation and destruction.

## MISCELLANEOUS FOOD

20700. Misbranding of Lemon Quick. U. S. v. 113 Cases \* \* \*. (F. D. C. No. 34161. Sample No. 54831-L.)

LIBEL FILED: November 21, 1952, Northern District of Indiana.

ALLEGED SHIPMENT: On or about July 21, 1952, by the J-A Corp., from Chicago, Ill.

PRODUCT: 113 cases, each containing 24 3-ounce bottles, of Lemon Quick at South Bend, Ind.

Examination showed that the article was essentially an artificially colored mixture of citric acid and dextrose, with small quantities of dried lemon juice, lemon oil, calcium phosphate, egg white, and ascorbic acid in imitation of dried lemon juice.

NATURE OF CHARGE: Misbranding, Section 403 (a), the vignette on the label depicting a portion of a lemon with what appeared to be a drop of lemon juice and the following statements in the labeling of the article were false and misleading since they represented and suggested that the article was dried lemon juice, whereas such was not the fact: (Label) "Lemon Quick \* \* \* Powdered Lemon Concentrate Equals the juice of 27 lemons \* \* \* Use exactly as squeezed lemon juice \* \* \* Use for \* \* \* lemonade \* \* \* lemon sauce; lemon ice cream, lemon sherbet, lemon jello \* \* \* To Make Lemon Juice Mix \* \* \* For Delicious Lemonade" and (display card) "Equals the juice of 27 lemons \* \* \* For every Lemon Use!" and "Use exactly as squeezed Lemon Juice."

Further misbranding, Section 403 (c), the article was an imitation of another food, dried lemon juice, and its label failed to bear in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (f), the information required by

Section 403 (i) to appear on the label, namely, the common or usual name of each ingredient contained therein, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use since such information appeared inconspicuously on the label.

DISPOSITION: July 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

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<sup>1</sup> (20690) Injunction issued.



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<sup>1</sup> (20690) Injunction issued.

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# U. S. Department of Health, Education, and Welfare

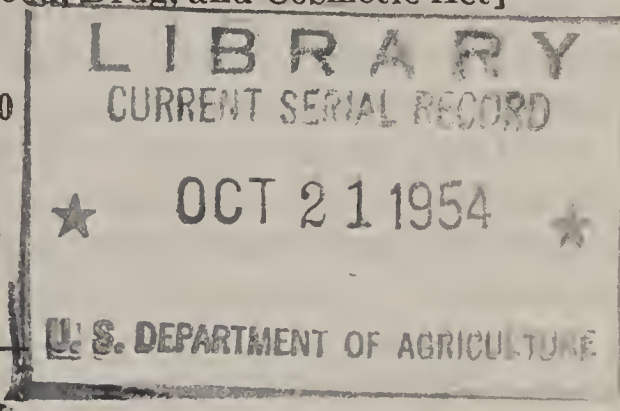
## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20701-20750

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *September 24, 1954.*

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20701. Adulteration of cookies.** U. S. v. 355 Cases, etc. (F. D. C. No. 35423. Sample Nos. 61484-L, 61489-L, 61490-L.)

**LIBEL FILED:** September 11, 1953, Western District of Oklahoma.

**ALLEGED SHIPMENT:** On or about July 31 and August 3, 6, and 21, 1953, by the Guthrie Biscuit Co., from Joplin, Mo.

**PRODUCT:** 355 cases, each containing 24 bags of vanilla wafers, 130 cases, each containing 12 packages, of coconut bars, and 81 cases, each containing 12 packages, of coconut puffs, at Oklahoma City, Okla.

**LABEL, IN PART:** (Bag) "Net Weight One Full Pound Vanilla Wafers"; (package) "Jane Arden Coconut Bars \* \* \* Net Wt. 6 Oz." and "Jane Arden Coconut Puffs Net Wt. 6½ Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects and insect fragments and (vanilla wafers) rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** November 12, 1953. No claimant having appeared, judgment of condemnation was entered and the court ordered that the product be delivered to a Federal institution, for use as animal feed.

**FLOUR**

**20702. Adulteration of flour.** U. S. v. 38 Bags, etc. (F. D. C. No. 35027. Sample Nos. 69658-L, 69659-L.)

**LIBEL FILED:** May 7, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about February 20, 1953, from Nephi, Utah.

**PRODUCT:** 38 50-pound bags and 86 25-pound bags of flour at Craig, Colo., in the possession of Bill's Supermarket.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 19, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as hog feed.

**20703. Adulteration of flour.** U. S. v. 25 Bags, etc. (F. D. C. No. 35008. Sample Nos. 8308-L to 8310-L, incl.)

**LIBEL FILED:** April 23, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 13, 1952, and January 16 and 29, 1953, from Buffalo, N. Y.

**PRODUCT:** 25 50-pound bags and 9 100-pound bags of flour at Charleroi, Pa., in the possession of the Fox Grocery Co.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been stored under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20704. Adulteration of flour. U. S. v. 74 Bags \* \* \*. (F. D. C. No. 35459. Sample No. 59368-L.)**

**LIBEL FILED:** August 19, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about April 24, 1953, from Enid, Okla.

**PRODUCT:** 74 25-pound bags of flour at Thomasville, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20705. Adulteration of flour. U. S. v. 123 Bags \* \* \*. (F. D. C. No. 35461. Sample No. 59374-L.)**

**LIBEL FILED:** August 21, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about October 3, 1952, from Chattanooga, Tenn.

**PRODUCT:** 123 10-pound bags of flour at Cairo, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20706. Adulteration of flour. U. S. v. 113 Bags \* \* \*. (F. D. C. No. 35404. Sample No. 59373-L.)**

**LIBEL FILED:** August 28, 1953, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about January 20, 1953, from Fort Worth, Tex.

**PRODUCT:** 113 10-pound bags of flour at Marianna, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 27, 1953. The Daffin Mercantile Co., Marianna, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be delivered to the claimant to be denatured for use as stock feed, conditioned that the claimant pay the costs of the libel proceedings. On November 3, 1953, the decree was amended to provide for the destruction of the product.

**20707. Adulteration and misbranding of enriched flour. U. S. v. 350 Bags \* \* \*.**  
(F. D. C. No. 35020. Sample No. 57064-L.)

**LIBEL FILED:** May 6, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about April 8, 1953, by the Amendt Milling Co., from Monroe, Mich.

**PRODUCT:** 350 5-pound bags of enriched flour at Toledo, Ohio.

**LABEL, IN PART:** "Vitamin and Mineral Enriched Flour Camp's Armada Mills Pansy Cake & Pastry Flour \* \* \* 5 Lbs. Bleached."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B<sub>1</sub>), riboflavin, niacin, and iron, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour since the article contained in each pound less than 2.0 milligrams of thiamine (vitamin B<sub>1</sub>), less than 1.2 milligrams of riboflavin, less than 16.0 milligrams of niacin, and less than 13.0 milligrams of iron.

**DISPOSITION:** May 29, 1953. Default decree of condemnation and destruction.

### MACARONI AND NOODLE PRODUCTS

**20708. Adulteration and misbranding of egg noodles. U. S. v. 18 Cases \* \* \*.**  
(F. D. C. No. 34985. Sample No. 58853-L.)

**LIBEL FILED:** April 10, 1953, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about January 7, 1953, by Aunt Sarah's Food Products, from Chicago, Ill.

**PRODUCT:** 18 cases, each containing 24 8-ounce packages, of egg noodles at South Bend, Ind.

**LABEL, IN PART:** "Defiance Brand Kluski Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 403 (b) (1), a valuable constituent, egg, had been in whole or in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

**DISPOSITION:** June 18, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**20709. Adulteration of egg noodles. U. S. v. 10 Cases \* \* \*.** (F. D. C. No. 35029. Sample No. 53900-L.)

**LIBEL FILED:** April 11, 1953, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about February 14, 1952, from Chicago, Ill.

**PRODUCT:** 10 cases, each containing 24 12-ounce packages, of egg noodles at St. Louis, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 5, 1953. Default decree of condemnation and destruction.



## MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20710. Adulteration of shelled yellow corn. U. S. v. 1 Carload \* \* \* (and 1 other seizure action). (F. D. C. Nos. 35483, 35484. Sample Nos. 83271-L, 83272-L.)**

**LIBELS FILED:** September 10, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 31, 1953, by the N. E. Burke Co., from Riceville, Iowa.

**PRODUCT:** 2 carloads, each containing 120,000 pounds, of shelled yellow corn at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of musty and sour corn.

**DISPOSITION:** September 24, 1953. The Stratton Grain Co., Chicago, Ill., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for conversion into alcohol or a commercial solvent, under the supervision of the Department of Health, Education, and Welfare.

**20711. Adulteration of unpopped popcorn. U. S. v. 24 Bags, etc. (F. D. C. No. 34989. Sample No. 55638-L.)**

**LIBEL FILED:** April 9, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about October 29, 1952, from Atchison, Kans.

**PRODUCT:** 24 100-pound bags and 9 50-pound bags of unpopped popcorn at Utica, N. Y., in the possession of the Broad Street Warehouse Corp.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 27, 1953. Default decree of condemnation and destruction.

**20712. Adulteration of wheat. U. S. v. 124,640 Pounds \* \* \*. (F. D. C. No. 35000. Sample No. 27024-L.)**

**LIBEL FILED:** April 23, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 7, 1953, by Arco Feed & Fuel, from Arco, Idaho.

**PRODUCT:** 124,640 pounds of wheat at Vallejo, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent and bird excreta.

**DISPOSITION:** June 3, 1953. General Mills, Inc., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Department of Health, Education, and Welfare.

**20713. Adulteration of wheat. U. S. v. 1 Carload \* \* \*. (F. D. C. No. 35016. Sample No. 58115-L.)**

**LIBEL FILED:** April 30, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about April 13, 1953, by the Farmers Elevator Co., from Middleton, Mich.

**PRODUCT:** 1 carload of wheat at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3) the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** May 7, 1953. The Norris Grain Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed, under the supervision of the Department of Health, Education, and Welfare.

**20714. Adulteration of wheat. U. S. v. 90,720 Pounds \* \* \*. (F. D. C. No. 35028. Sample No. 20494-L.)**

**LIBEL FILED:** May 7, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about April 28, 1953, by the Bagley Elevator Co., from Ismay, Mont.

**PRODUCT:** 90,720 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** May 8, 1953. The George C. Bagley Elevator Co., Minneapolis, Minn., claimant, having consented to the entry of a decree; judgment of condemnation was entered and the court ordered that the product be released under bond for conversion for use as seed wheat, under the supervision of the Department of Health, Education, and Welfare.

**20715. Adulteration of wheat. U. S. v. 90,000 Pounds \* \* \*. (F. D. C. No. 35011. Sample No. 65051-L.)**

**LIBEL FILED:** April 28, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about April 15, 1953, by the Fessenden Cooperative Association, from Fessenden, N. Dak.

**PRODUCT:** 90,000 pounds of wheat at Minneapolis, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

**DISPOSITION:** May 11, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 3,400 pounds of the product were found unfit and were set aside for disposition as animal feed.

**20716. Adulteration of toasted wheat cereal. U. S. v. 30 Bags \* \* \*. (F. D. C. No. 35627. Sample No. 51915-L.)**

**LIBEL FILED:** September 16, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 16, 1953, from Moundridge, Kans.



**PRODUCT:** 30 100-pound bags of toasted wheat cereal at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 14, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

## CHOCOLATE, SUGAR, AND RELATED PRODUCTS

### CANDY

**20717. Adulteration of candy. U. S. v. 26 Boxes, etc.** (F. D. C. No. 35009. Sample Nos. 14442-L, 14443-L.)

**LIBEL FILED:** April 24, 1953, District of Utah.

**ALLEGED SHIPMENT:** On or about March 14, 1953, by the El Mar Candy Co., from Pasadena, Calif.

**PRODUCT:** 34 boxes, each containing 24 bars, of candy at Salt Lake City, Utah.

**LABEL, IN PART:** "Peanut Cluster Milk Chocolate \* \* \* Net Weight 1¼ Oz." and "Cherry Nut Bar Net Wt. 1⅛ Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** May 29, 1953. Default decree of condemnation and destruction.

**20718. Adulteration of candy. U. S. v. 5 Cases \* \* \*.** (F. D. C. No. 35037. Sample No. 61545-L.)

**LIBEL FILED:** On or about May 22, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about October 31, 1952, from Boston, Mass.

**PRODUCT:** 5 cases, each containing 20 boxes, of candy at Kansas City, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid candy. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 29, 1953. Default decree of destruction.

### COCOA BEANS

**20719. Adulteration of cocoa beans. U. S. v. 100 Bags \* \* \*.** (F. D. C. No. 35454. Sample No. 42792-L.)

**LIBEL FILED:** August 17, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about May 5, 1953, from New York, N. Y.

**PRODUCT:** 100 132-pound bags of cocoa beans at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 11, 1953. The Boldemann Chocolate Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 615 pounds of the product were found unfit and were destroyed.

### HONEY AND SIRUP

**20720. Misbranding of honey. U. S. v. 34 Cases \* \* \*. (F. D. C. No. 35024. Sample No. 73163-L.)**

**LIBEL FILED:** May 4, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about March 31, 1953, by Finger Lakes Honey Producers Cooperative, Inc., from Groton, N. Y.

**PRODUCT:** 34 cases, each containing 24 jars, of honey at Hazleton, Pa.

**LABEL, IN PART:** (Jar) "Royal Swan Net Wt. 8 Oz. White Clover Honey 100% Pure."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Net Wt. 8 Oz." was inaccurate. (Examination showed that the article was short weight.)

**DISPOSITION:** May 19, 1953. Finger Lakes Honey Producers Cooperative, Inc., Groton, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of repackaging the product to the correct weight, under the supervision of the Department of Health, Education, and Welfare.

**20721. Adulteration of malt sirup. U. S. v. 14 Cases \* \* \*. (F. D. C. No. 34993. Sample No. 4641-L.)**

**LIBEL FILED:** On or about April 9, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about November 1, 1952, from Cincinnati, Ohio.

**PRODUCT:** 14 cases, each containing 12 3-pound cans, of malt sirup at Ravenswood, W. Va. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 30, 1953. Default decree of condemnation and destruction.

### SUGAR

**20722. Adulteration of sugar. U. S. v. 12 Bags \* \* \*. (F. D. C. No. 35030. Sample No. 55649-L.)**

**LIBEL FILED:** May 9, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about January 6, 1953, from Brooklyn, N. Y.

**PRODUCT:** 12 110-pound bags of sugar at Canastota, N. Y., in the possession of Queensboro Farm Products, Inc.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 22, 1953. Default decree of condemnation and destruction.

## DAIRY PRODUCTS

### BUTTER

**20723. Adulteration of butter. U. S. v. Beatrice Foods Co. Plea of guilty. Fine, \$1,000. (F. D. C. No. 34846. Sample Nos. 36205-L, 36575-L.)**

**INFORMATION FILED:** August 6, 1953, Southern District of Indiana, against the Beatrice Foods Co., a corporation, Vincennes, Ind.

**ALLEGED SHIPMENT:** Between the approximate dates of May 16 and July 31, 1952, from the State of Indiana into the States of Illinois and Kentucky.

**LABEL, IN PART:** (Cases and boxes) "Tip Top Creamery Co. Vincennes, Indiana."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, fly fragments, fly setae, ants, rodent hair fragments, feather barbules, cow hairs, dung fragments, and plant fragments, and by reason of the manufacture of the article from filthy and decomposed cream.

**DISPOSITION:** February 12, 1954. The defendant having entered a plea of guilty, the court fined it \$1,000.

**20724. Adulteration of butter. U. S. v. 22 Boxes (1,408 pounds) \* \* \*. (F. D. C. No. 35551. Sample No. 58994-L.)**

**LIBEL FILED:** August 17, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 22, 1953, by Equity Union Creameries, from Mitchell, S. Dak.

**PRODUCT:** 22 64-pound boxes of butter at Chicago, Ill.

**LABEL, IN PART:** "Farmers Union Co-op. Creamery Menno, S. Dakota."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** September 23, 1953. Fox De Luxe Foods, Inc., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning under the supervision of the Department of Health, Education, and Welfare.

### CHEESE

**20725. Adulteration of swiss cheese. U. S. v. Joseph A. Staub, Jr. (Staub Cheese & Butter Factory). Plea of nolo contendere. Fine of \$1,000 suspended and defendant placed on probation for 2 years. (F. D. C. No. 34855. Sample No. 66011-L.)**

**INFORMATION FILED:** July 10, 1953, Northern District of Illinois, against Joseph A. Staub, Jr., trading as the Staub Cheese & Butter Factory, Waddams Grove, Ill.

**ALLEGED SHIPMENT:** On or about December 28, 1952, from the State of Illinois into the State of Wisconsin.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** December 8, 1953. The Government having furnished a bill of particulars in response to the defendant's motion therefor and the defendant subsequently having entered a plea of nolo contendere, the court imposed a fine of \$1,000, which was suspended, and placed the defendant on probation for 2 years.

**20726. Adulteration and misbranding of pasteurized process American cheese.**

U. S. v. 129 Boxes \* \* \*. (F. D. C. No. 35637. Sample No. 45546-L.)

**LIBEL FILED:** September 17, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about August 13, 1953, by the Spring Maid Packing Co., from New York, N. Y.

**PRODUCT:** 129 boxes of pasteurized process American cheese at Woonsocket, R. I.

**LABEL, IN PART:** (Box) "Spring Maid Brand Pasteurized Process American Cheese Net Wt. 5 Lbs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing excessive moisture and deficient in fat had been substituted in whole or in part for pasteurized process American cheese.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for pasteurized process American cheese since it contained more than 40 percent of moisture and its solids contained less than 50 percent of milk fat.

**DISPOSITION:** October 22, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

**20727. Adulteration and misbranding of pasteurized process American cheese.**

U. S. v. 10 Cases \* \* \*. (F. D. C. No. 35634. Sample Nos. 45378-L, 45379-L.)

**LIBEL FILED:** September 14, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 17, 1953, by the Spring Maid Dairy Products Co., from New York, N. Y.

**PRODUCT:** 10 cases, each containing 6 loaves, of pasteurized process American cheese at Worcester, Mass.

**LABEL, IN PART:** (Loaf wrapper) "Spring Maid Brand Pasteurized Process American Cheese Net Wt. 5 Lbs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing excessive moisture and deficient in fat had been substituted in whole or in part for pasteurized process American cheese.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for pasteurized process American cheese since it contained more than 40 percent of moisture and its solids contained less than 50 percent of milk fat.



**DISPOSITION:** November 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

## EGGS

**20728. Adulteration of frozen eggs. U. S. v. 764 Cans \* \* \*. (F. D. C. No. 33680. Sample No. 53020-L.)**

**LIBEL FILED:** September 9, 1952, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about May 21 and 22, 1952, by the Continent Frozen Foods Corp., from National Stock Yards, Ill.

**PRODUCT:** 764 30-pound cans of frozen eggs at St. Louis, Mo.

**LABEL, IN PART:** "Independent's Frozen Egg Products Solids Quality Point Pointex."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** December 18, 1952. The shipper, claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for segregation of the unfit portion for industrial use, under the supervision of the Food and Drug Administration. 409 cans of the product were found unfit and were denatured.

**20729. Adulteration of frozen eggs. U. S. v. 25 Cans \* \* \*. (F. D. C. No. 35023. Sample No. 41006-L.)**

**LIBEL FILED:** May 4, 1953, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about December 30, 1952, and February 26, 1953, by the Portland Egg & Poultry Co., from Portland, Oreg.

**PRODUCT:** 25 30-pound cans of frozen eggs at Spokane, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** September 8, 1953. The Portland Egg & Poultry Co., claimant, having withdrawn its claim and answer, judgment of condemnation was entered and the court ordered that the product be destroyed.

## FEEDS AND GRAINS

**20730. Misbranding of alfalfa meal. U. S. v. Luxora Gin Co., Inc. Plea of nolo contendere. Fine, \$625. (F. D. C. No. 34827. Sample No. 164-L.)**

**INFORMATION FILED:** May 12, 1953, Eastern District of Arkansas, against the Luxora Gin Co., Inc., Luxora, Ark.

**ALLEGED SHIPMENT:** On or about September 22, 1952, from the State of Arkansas into the State of Kentucky.

**LABEL, IN PART:** (Tag on bag) "17% Dehydrated Alfalfa Meal 100 Lbs. Net Guaranteed Analysis Crude Protein, not less than---- 17.0% Luxora Gin Co. Luxora, Ark."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Crude Protein, not less than---- 17.0%" was false and misleading since the article contained less than 17 percent of crude protein.

DISPOSITION: April 26, 1954. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$625.

**20731. Adulteration and misbranding of swine mix. U. S. v. 2 Bags \* \* \*.**  
(F. D. C. No. 33628. Sample No. 16624-L.)

LIBEL FILED: On or about August 6, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about April 11, 1952, from Pasadena, Calif.

PRODUCT: 2 50-pound bags of swine mix at Kansas City, Mo. Analysis showed that the product contained 50 percent of the declared amount of vitamin D.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Contains Not Less Than: \* \* \* Vitamin D-2, USP Units 400,000" was false and misleading as applied to an article which contained less than that amount of vitamin D.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: September 23, 1952. Ray Ewing Co., Inc., Pasadena, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration, by reworking and remixing the product so as to add sufficient vitamin D<sub>2</sub> units to bring the vitamin D<sub>2</sub> content up to the specifications set forth on the labels.

**20732. Adulteration of dry rendered tankage (animal feed). U. S. v. 35,800 Pounds \* \* \*.** (F. D. C. No. 35485. Sample No. 64948-L.)

LIBEL FILED: September 15, 1953, District of Minnesota.

ALLEGED SHIPMENT: On or about August 24, 1953, by the Rome Rendering Works Co., from Rome, N. Y.

PRODUCT: 35,800 pounds of dry rendered tankage, an animal feed, at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance and it was otherwise unfit for food by reason of the presence of decomposed bones, tissues, hide, stomach contents, composted packing house wastes, and manure.

DISPOSITION: October 28, 1953. Default decree of destruction.

## FISH AND SHELLFISH

**20733. Adulteration of fresh channel catfish. U. S. v. 2 Barrels \* \* \*.** (F. D. C. No. 35012. Sample Nos. 53597-L, 53598-L.)

LIBEL FILED: On or about April 29, 1953, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about April 21 and 22, 1953, by the Osceola Fisheries, from Okeechobee, Fla., and by the Stokes Fish Co., from Leesburg, Fla.

PRODUCT: 2 barrels of fresh channel catfish at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article in both barrels consisted in whole or in part of a filthy substance by reason of its having been improperly eviscerated, leaving parts of the intestines, and by reason of its containing dirt and miscellaneous debris from filthy containers.



**DISPOSITION:** May 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization to be used as food for the recipients of its charity. The fish were washed, entirely eviscerated, and then washed several times more before they were used as food.

**20734. Adulteration and misbranding of canned mackerel. U. S. v. 378 Cartons \* \* \*. (F. D. C. No. 34620. Sample No. 18023-L.)**

**LIBEL FILED:** January 22, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about December 15, 1952, by Safeway Stores, Inc., from San Francisco, Calif.

**PRODUCT:** 378 cartons, each containing 48 cans, of mackerel at Kearny, N. J.

**LABEL, IN PART:** (Can) "Propeller Brand California Pacific Mackerel \* \* \* Net Weight 15 Oz. Distributed By Bridgeport Canfish Company Head Office San Francisco, California."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Pacific Mackerel" was false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** February 16, 1954. Safeway Stores, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the portion of the product found to be in compliance with the law be delivered to the custody of the claimant for the purposes of its business and that the remainder of the article be delivered to the custody of the claimant for distribution to a charitable organization, under the supervision of the Department of Health, Education, and Welfare.

**20735. Adulteration of frozen red snappers. U. S. v. 2,287 Pounds, etc. (F. D. C. No. 34375. Sample Nos. 23267-L, 23270-L.)**

**LIBEL FILED:** On or about December 1, 1952, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 30, 1952, from Pensacola, Fla.

**PRODUCT:** 3,490 pounds of frozen red snappers in 12 boxes at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 18, 1954. Default decree of condemnation and destruction.

**20736. Adulteration and misbranding of oysters. U. S. v. 616 Cans, etc. Consent decree of condemnation. Product ordered released under bond. Government's motion granted for forfeiture of bond for failure to comply with conditions of the decree. (F. D. C. No. 32170. Sample Nos. 3203-L, 3205-L.)**

**LIBEL FILED:** November 20, 1951, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about November 14, 1951, by W. E. Riggin & Co., from Crisfield, Md.

PRODUCT: 616 cans of oysters standards and 304 cans of oysters selects at Springfield, Ill.

LABEL, IN PART: (Can) "Oysters Standards [or "Selects"] One Pint Rigco Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

Misbranding, Section 403 (g) (1), the oysters failed to conform to the definitions and standards of identity for oysters standards and oysters selects since the oysters were not thoroughly drained, and, in their preparation, the total time of their contact with water or salt water, after leaving the shucker, was more than 30 minutes.

DISPOSITION: November 21, 1951. W. E. Riggin & Co., claimant, having agreed to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the product be reworked, repacked, and resold under the supervision of the Food and Drug Administration.

On or about April 13, 1953, the Government filed a motion for the entry of an order forfeiting the bond, on the ground that the claimant had failed to comply with the provisions of the decree. The claimant filed a cross motion for mitigation of the forfeiture in part. The matter came on to be heard before the court on December 3, 1953; and, on or about December 18, 1953, the court entered the following findings of fact, conclusions of law, and order:

BRIGGIE, *District Judge*:

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

"On the 3rd day of December, 1953, this cause came on to be heard upon motion of libelant, United States of America, by John B. Stoddart, Jr., United States Attorney in and for the Southern District of Illinois, for an order forfeiting the bond herein filed by W. E. Riggin & Company, a corporation, of Crisfield, Maryland, the claimant herein, and on the cross motion of said claimant and its surety on said bond, M. R. Riley, of the city of Springfield, Illinois, for mitigation of the forfeiture in part; now on consideration of said motions, the affidavits and evidence submitted in support thereof, and the arguments of counsel, and the Court now being fully informed in the premises, doth adopt the following as its findings of fact, to wit:

"1. On November 20, 1951, the petitioner filed its Libel of Information for the seizure and condemnation of the above-described articles of food, according to the provisions of the Federal Food, Drug and Cosmetic Act (Sec. 334, Title 21, U. S. C.).

"2. That pursuant to said petition the said articles of food were seized by the United States Marshal for the said Southern District of Illinois, and thereafter on November 21, 1951, with the consent of the said claimant this Court entered a decree of condemnation and forfeiture herein holding that said articles of food were misbranded and adulterated within the meaning of said Act, and further ordering the destruction of said articles of food, subject, however, to the same being released to said claimant for re-working, re-packing, re-labeling and re-sale upon the filing by said claimant of good and sufficient security in the sum of \$500.00, conditioned that the said claimant would not sell or dispose of said articles of food or any part thereof, in violation of said Act or of the laws of the United States or any State or Territory, and that the claimant would re-work, re-pack, re-label and re-sell the said property under such conditions as to the label, and use of the same under the supervision and subject to the inspection and approval of the Food and Drug Administration, and that said claimant would pay the costs in this



cause, and all expense of said Food and Drug Administration, in connection with the compliance by said claimant with the conditions of said bond.

"3. That thereafter the said claimant duly filed herein its penal bond in the sum of \$500.00 with the said M. R. Riley as surety thereon, and said articles of food were thereupon turned over to said claimant by the United States Marshal pursuant to the provisions of said decree of condemnation; and that the total amount of said articles of food so released to said claimant was 110 gallons of oysters.

"4. That thereafter in due course said claimant accounted for the disposition made by it of 79 gallons of said oysters, but otherwise failed to disclose the disposition made of the 31 remaining gallons of said oysters, which were disposed of by said claimant and/or its agents in a manner undisclosed in and by the evidence heard herein, except that said claimant admits it has not disclosed the disposition made of said 31 gallons of oysters and asserts that it is uninformed as to the disposition made of said 31 gallons of oysters.

"5. That said claimant has failed to comply with the terms and provisions of said decree of condemnation, and has disposed of said 31 gallons of oysters without the supervision, inspection or approval of the Food and Drug Administration and has thereby breached the conditions of its said bond.

"6. That said claimant and surety admit, and the Court so finds, that said 110 gallons of oysters were placed by said claimant in the custody of 'Packers Ice and Cold Storage Co.' plant at Crisfield, Maryland, and that the records of said cold storage plant disclose the withdrawal by an agent of said claimant from time to time, of said 110 gallons of oysters, including the said 31 gallons of oysters, the disposition of which is unexplained by the evidence in this cause, and that other than the failure to account for the disposition of said 31 gallons of oysters as aforesaid, there is no evidence before the Court indicating that said claimant wilfully and intentionally violated the conditions of said bond.

"7. That the claimant herein has by its failure to account for said 31 gallons of oysters, breached the conditions of said bond.

"And the Court further adopts the following as its conclusions of law:

"1. There has been a breach of the bond posted by the claimant in this cause, of the nature such as to support a forfeiture of said bond and the entry of a judgment herein against said claimant and said surety for the full amount of said bond.

"2. That this bond was given under the provisions of Section 334, Title 21, U. S. C. and is a penal bond.

"3. That this Court lacks authority to remit a portion of the penalty of said bond.

"THEREFORE, the order of the Court is that the motion of the petitioner, United States of America, herein, be and the same is hereby allowed, and that the motion of the claimant and its surety herein for a remission of said forfeiture in part, is denied; that the said bond in the sum of \$500.00 be, and the same is hereby forfeited.

"IT IS FURTHER ORDERED BY THE COURT that the petitioner, United States of America, have judgment against said W. E. Riffin & Company, a corporation, and against said M. R. Riley, for the sum of \$500.00 and the costs of this proceeding, and the Clerk is directed to enter judgment of record in accordance with this order."

**20737. Adulteration of canned crabmeat. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 34977. Sample No. 49914-L.)**

**LIBEL FILED:** April 23, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** Sometime during 1946, from New Orleans, La.

**PRODUCT:** 98 cases, each containing 24 6½-ounce cans, of crabmeat at New York, N. Y. Examination showed that the product had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 15, 1953. Default decree of condemnation and destruction.

**20738. Adulteration of frozen crabmeat. U. S. v. 4 Cases \* \* \*. (F. D. C. No. 34987. Sample No. 69218-L.)**

**LIBEL FILED:** April 10, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about March 10, 1953, from Seattle, Wash.

**PRODUCT:** 4 cases, each containing 6 5-pound cans, of frozen crabmeat at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as fertilizer.

**20739. Adulteration of frozen crabmeat. U. S. v. 14 Cans \* \* \*. (F. D. C. No. 34986. Sample No. 69217-L.)**

**LIBEL FILED:** April 10, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about March 13, 1953, from Seattle, Washington.

**PRODUCT:** 14 5-pound cans of frozen crabmeat at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as fertilizer.

## FRUITS AND VEGETABLES

### DRIED FRUIT

**20740. Adulteration of prunes. U. S. v. 175 Cases \* \* \*. (F. D. C. No. 35005. Sample No. 4643-L.)**

**LIBEL FILED:** April 22, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about February 25, 1947, from San Jose, Calif.

**PRODUCT:** 175 cases, each containing 24 2-pound packages, of prunes at Welch, W. Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested prunes, and of a decomposed substance by reason of the presence of fermented prunes. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 12, 1953. Default decree of condemnation and destruction.

**20741. Adulteration of dried black raspberries. U. S. v. 239 Cartons \* \* \*. (F. D. C. No. 33082. Sample No. 4669-L.)**

**LIBEL FILED:** April 21, 1952, Southern District of West Virginia.



**ALLEGED SHIPMENT:** On or about September 5 and November 1, 1951, by I. N. Croucher & Son, from Canandaigua, N. Y.

**PRODUCT:** 239 25-pound cartons of dried black raspberries at Huntington, W. Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.

**DISPOSITION:** January 15, 1954. I. N. Croucher & Son having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 1,734 pounds of the product were found unfit and were destroyed.

### JAMS, JELLIES, AND PRESERVES

**20742. Adulteration and misbranding of apricot jam. U. S. v. 66,948 Jars \* \* \*.**  
(F. D. C. No. 32908. Sample No. 35737-L.)

**LIBEL FILED:** March 24, 1952, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 10, 1951, by the Fruitcrest Corp., from Brooklyn, N. Y.

**PRODUCT:** 66,948 jars of apricot jam at Columbus, Ohio.

**LABEL, IN PART:** (Jar) "Fruitcrest Pure Apricot Jam Contents 2 Lbs."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product deficient in fruit had been substituted for apricot jam.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for apricot jam since the article was made from a mixture composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of one of the saccharine ingredients.

**DISPOSITION:** The Fruitcrest Corp. filed a motion in which it alleged that it was the manufacturer of the product and that title to its product was in its vendee, the United States Government, and in which it requested permission to intervene for the sole purpose of litigating the alleged violation of the Act. The Government filed a brief in opposition to the motion, and, on December 31, 1952, after consideration of the matter, the court ruled that the motion should be sustained. The Fruitcrest Corp. then filed an answer denying that the product was adulterated and misbranded when introduced into interstate commerce. Thereafter, the Government filed a set of written interrogatories upon the corporation, after which the corporation filed a motion to strike the interrogatories. The court overruled the motion on September 4, 1953. Answers to the interrogatories were filed by the corporation on October 20, 1953.

On March 1, 1954, the Fruitcrest Corp. having consented to the entry of a decree without admitting the allegations of adulteration and misbranding contained in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

20743. Misbranding of preserves and jelly. U. S. v. Allan K. Dickinson, Jr. Plea of nolo contendere. Fine, \$12. (F. D. C. 33850. Sample Nos. 29228-L to 29230-L, incl., 29330-L, 29334-L, 29349-L, 29350-L, 29669-L to 29674-L, incl.)

INFORMATION FILED: March 4, 1953, District of Oregon, against Allan K. Dickinson, Jr., manager of the Oswego Jelly Co., Oswego, Ore.

ALLEGED SHIPMENT: Between the approximate dates of March 21 and August 20, 1952, from the State of Oregon into the State of Washington.

LABEL, IN PART: (Jar) "Oregon Hills Brand Pure Strawberry Preserves [or "Pure Seedless Blackcap Preserves," "Pure Mountain Wild Blackberry Preserves," "Pure Mountain Wild Blackberry Jelly," "Pure Seedless Blackberry Preserves," and "Pure Seedless Red Raspberry Preserves"] 12 Ozs. or Over Made by Allan and Allan Dickinson Oswego, Ore." and "Oregon Hills Pure Tomato Preserves \* \* \* Net Wt. 12 Ozs. or Over Made by Allan and Allan Dickinson Oswego, Ore."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the preserves failed to conform to the definitions and standards of identity for fruit preserves and the blackberry jelly failed to conform to the definition and standard of identity for fruit jelly since the preserves and jelly had not been concentrated by heat to such point that the soluble-solids content of the preserves was not less than 68 percent and the jelly not less than 65 percent; and the tomato preserves failed also to conform to the definition and standard of identity since it contained artificial coloring, which is not permitted as an optional ingredient of tomato preserves.

DISPOSITION: October 2, 1953. The defendant having entered a plea of nolo contendere, the court fined him \$1 on each of the 12 counts of the information.

### VEGETABLES AND VEGETABLE PRODUCTS

20744. Adulteration of Great Northern beans. U. S. v. 50 Bags \* \* \*. (F. D. C. No. 34988. Sample No. 20572-L.)

LIBEL FILED: April 8, 1953, Northern District of Iowa.

ALLEGED SHIPMENT: On or about November 21, 1952, and January 22, 1953, from Morrill, Nebr.

PRODUCT: 50 100-pound bags of Great Northern beans at Waterloo, Iowa, in the possession of the Iowa Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent-gnawed beans; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 5, 1953. The Chester B. Brown Co., Morrill, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 33 pounds of the product were found unfit and were destroyed.



**20745. Adulteration of dried lentils. U. S. v. 6 Bags \* \* \*. (F. D. C. No. 34979. Sample No. 45315-L.)**

**LIBEL FILED:** April 22, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 4, 1952, from Marcellus Falls, N. Y.

**PRODUCT:** 6 100-pound bags of dried lentils at Everett, Mass., in the possession of Budrell Packers, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent-gnawed lentils; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 8, 1953. Default decree of condemnation and destruction.

**20746. Adulteration of canned pumpkin. U. S. v. 78 Cases \* \* \*. (F. D. C. No. 34996. Sample No. 55634-L.)**

**LIBEL FILED:** April 14, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about February 15, 1952, from North East, Pa.

**PRODUCT:** 78 cases, each containing 24 1-pound, 13-ounce cans, of pumpkin at Mayville, N. Y. Examination showed that the product had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 14, 1953. Default decree of condemnation and destruction.

### **TOMATOES AND TOMATO PRODUCTS**

**20747. Adulteration and misbranding of canned tomatoes. U. S. v. Westwood Canning Co., Inc., and John DeSchipper. Pleas of guilty. Fine of \$500 against corporation and fine of \$250 against individual, plus costs. (F. D. C. No. 32810. Sample No. 18945-L.)**

**INFORMATION FILED:** October 1, 1952, Southern District of Indiana, against Westwood Canning Co., Inc., New Castle, Ind., and John DeSchipper, president of the corporation.

**ALLEGED SHIPMENT:** On or about September 27, 1951, from the State of Indiana into the State of Minnesota.

**LABEL, IN PART:** (Can) "Wizdom Tomatoes Net Weight 1 Lb. 3 Oz. Red Owl Stores, Inc. Minneapolis, Minn. Distributors."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (g) (2), the label failed to bear, as required by the definition and standard of identity for canned tomatoes, the name of the optional ingredient present in the article since the article contained a calcium salt and its label failed to bear a statement of the presence of calcium salt.

**DISPOSITION:** May 10, 1954. The defendants having entered pleas of guilty, the court imposed a fine of \$500 against the corporation and a fine of \$250 against the individual, plus costs.

**20748. Adulteration of tomato juice. U. S. v. Wann Packing Co. Plea of guilty. Fine of \$500, plus costs. (F. D. C. No. 32823. Sample Nos. 36070-L, 48820-L.)**

**INFORMATION FILED:** October 10, 1952, Southern District of Indiana, against the Wann Packing Co., a partnership, Frankton, Ind.; amended information filed on or about August 31, 1953.

**ALLEGED SHIPMENT:** On or about March 12 and April 8, 1952, from the State of Indiana into the States of Ohio and Minnesota.

**LABEL, IN PART:** (Can) "Roy Boy Tomato Juice Contents 1 Qt. 14 Fl. Oz. Packed by Laughlin Packing Co., Frankton, Ind."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material; and, Section 402 (a) (4), the article was prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 25, 1953. The defendant having entered a plea of guilty, the court imposed a fine of \$500, plus costs.

## MEAT AND POULTRY

**20749. Adulteration and misbranding of horsemeat. U. S. v. Orlando DeStefani (Red & White Market and DeStefani's Market). Plea of guilty. Defendant fined \$750 and placed on probation for 1 year. (F. D. C. 34326. Sample Nos. 6636-L, 6638-L, 44307-L, 44311-L.)**

**INFORMATION FILED:** June 8, 1953, District of Rhode Island, against Orlando DeStefani, trading and doing business as the Red & White Market and DeStefani's Market, Woonsocket, R. I.

**ALLEGED VIOLATION:** On or about June 13 and 20, 1952, while a quantity of horsemeat was being held for sale at the Red & White Market (also known as DeStefani's Market), after shipment in interstate commerce, the defendant caused a quantity of the horsemeat to be sold as beef hamburger, cube beef steak, and stew beef, which acts resulted in the article being adulterated and misbranded.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), horsemeat had been substituted for beef hamburger and stew beef.

Misbranding, Section 403 (b), the article was offered for sale under the name of other foods, namely, beef hamburger and cube beef steak.

**DISPOSITION:** April 6, 1954. The defendant having entered a plea of guilty, the court fined him \$750 and placed him on probation for 1 year.

**20750. Action to enjoin and restrain the interstate shipment of adulterated poultry. U. S. v. Delmarva Poultry Corp., Eagle Poultry Packers, Inc., Royal Poultry Corp., David Pack, and Harry Landes. Temporary restraining order issued. (Inj. No. 243.)**

**COMPLAINT FILED:** May 8, 1952, District of Delaware, against the Delmarva Poultry Corp., Milford and Frankford, Del.; Eagle Poultry Packers, Inc., Frankford, Del.; the Royal Poultry Corp., Frankford, Del.; and David Pack,



president of the Delmarva Poultry Corp. and the Royal Poultry Corp., and Harry Landes, president of Eagle Poultry Packers, Inc., and chairman of the board of directors of the Delmarva Poultry Corp. and the Royal Poultry Corp.

**NATURE OF CHARGE:** The complaint alleged that the defendants had been and were at the time introducing and causing to be introduced, and delivering and causing to be delivered, for introduction into interstate commerce, at Milford and Frankford, Del., various quantities of poultry which were adulterated as follows:

Section 402 (a) (3), the poultry consisted in part of a filthy substance by reason of its contamination with fecal matter, crop material, and filthy wax, of a decomposed substance by reason of the presence of decomposed poultry, and was otherwise unfit for food by reason of excessively bruised birds;

Section 402 (a) (4), the poultry had been and was being prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth; and,

Section 402 (a) (5), the poultry was in part the product of diseased birds and of birds which had died otherwise than by slaughter.

The complaint alleged further that the insanitary conditions in the Delmarva Poultry Corp. plants where poultry had been and was being slaughtered, processed, packed, and held, resulted from and consisted of the use of poultry carcasses which had been dropped on floors which were covered with fecal matter, crop material, and other filth; the contamination of poultry by flies; the use of filthy water to scald and chill the poultry; the smearing of dressed poultry with crop and fecal material; and the use in defeathering operations of filthy wax which had been dropped to the floor into fecal matter, crop material, and other filth.

The complaint alleged also that the defendants were well aware that their activities were in violation of the law; that during 1950 and 1951, the Food and Drug Administration had examined 21 lots of adulterated poultry shipped in interstate commerce by the Delmarva Poultry Corp.; that 10 lots of such poultry were seized under the provisions of the Act; that during 1950, 5 lots of adulterated poultry were shipped in interstate commerce by Eagle Poultry Packers, Inc., and that 1 lot of such poultry was seized; that during 1950 and on March 5, 1952, 2 lots of violative poultry shipped by the Royal Poultry Corp., in interstate commerce, were seized; that several inspections of the plants of the Delmarva Poultry Corp. and Eagle Poultry Packers, Inc., were made by the Food and Drug Administration, during which the insanitary conditions existing in the plants were brought to the attention of such corporations and their employees; that several notices of hearing pursuant to Section 305 had been issued to the defendants, and, in response thereto, David Pack and Harry Landes had appeared and had been advised of the illegal nature of the operations; and that on December 11, 1950, a fine of \$1,500 was imposed against Eagle Poultry Packers, Inc., for the interstate shipment of adulterated poultry.

It was alleged further that the Delmarva Poultry Corp., David Pack, and Harry Landes had stored at Dover, Del., approximately 19,726 pounds of adulterated dressed poultry, which, in the usual and ordinary course of business, would be shipped in interstate commerce and which constituted a menace to interstate commerce because of the presence of diseased poultry, bruised poultry, decomposed poultry, and poultry contaminated with crop material and fecal matter.

DISPOSITION: On May 8, 1952, a temporary restraining order was entered, enjoining the defendants from directly or indirectly introducing or causing to be introduced, or delivering or causing to be delivered, for introduction into interstate commerce, poultry adulterated within the meaning of Section 402 (a) (3), (4), or (5). The temporary restraining order subsequently was extended by stipulations of the parties.

On August 14, 1952, it was agreed by the parties that the temporary restraining order, only insofar as it applied to the Delmarva Poultry Corp. and the Royal Poultry Corp., should be continued in effect until May 7, 1953, at which time the order should automatically expire; that the poultry in storage at Dover, Del., should be returned for regrading to the Delmarva plant at Milford, Del., and approved by an official of the Federal Security Agency before introduction into interstate commerce; and that any of such poultry found violative should be destroyed. The temporary restraining order expired on May 7, 1953, without further legal action being taken.

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<sup>1</sup> (20736) Forfeiture of bond contested. Contains findings of fact, conclusions of law, and order of the court.  
<sup>2</sup> (20750) Injunction issued.



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<sup>2</sup> (20750) Injunction issued.

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<sup>1</sup> (20736) Forfeiture of bond contested. Contains findings of fact, conclusions of law, and order of the court.

<sup>2</sup> (20750) Injunction issued.



U. S. Department of Health, Education, and Welfare

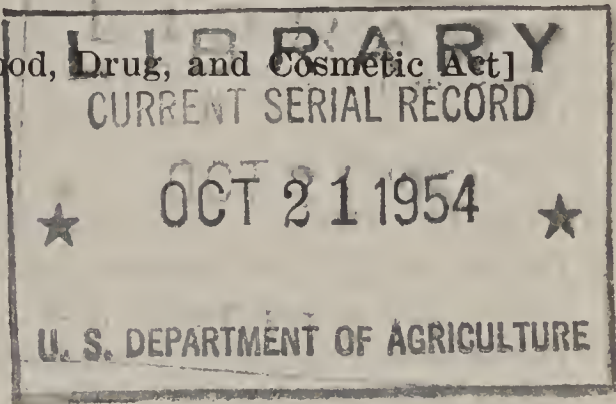
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20751-20800

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *September 28, 1954.*

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20751. Adulteration of bread and rolls. U. S. v. Harrison Baking Co., Inc. Plea of nolo contendere. Fine, \$1,200. (F. D. C. No. 32804. Sample Nos. 37987-L to 37989-L, incl., 38022-L to 38024-L, incl.)**

**INFORMATION FILED:** August 20, 1952, District of New Jersey, against Harrison Baking Co., Inc., Harrison, N. J.

**ALLEGED SHIPMENT:** On or about September 25, 1951, and February 28, 1952, from the State of New Jersey into the State of New York.

**LABEL, IN PART:** "Lady Fair Enriched Bread Weight 16 Ozs. Baked For Food Fair Stores, Inc. Philadelphia, Pa.," "Sliced Grade-A Pechter's Enriched Baked by Harrison Baking Co., Inc. Net Wt. 3 Lb.," "8 Rolls Pechter's Sandwich Rolls Harrison Baking Co., Harrison, N. J.," "Pechter's 2 Pullman Sliced Sandwich Bread Net Weight 2 Lbs. Baked by Harrison Baking Co., Inc.," and "Baked by Harrison Baking Co. Pechter's Sliced Rye Weight 16 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** February 27, 1953. The corporation having entered a plea of nolo contendere, the court fined it \$1,200.

**FLOUR**

**20752. Adulteration of flour. U. S. v. 29 Cases \* \* \*. (F. D. C. No. 35480. Sample No. 62743-L.)**

**LIBEL FILED:** September 12, 1953, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about August 18, 1953, by the Commander-Larabee Milling Co., from Hutchinson, Kans.

**PRODUCT:** 29 cases, each containing 25 2-pound bags, of flour at Memphis, Tenn.

**LABEL, IN PART:** (Bag) "Kroger Enriched Self-rising Flour."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** October 12, 1953. Default decree of condemnation. The court ordered that the product be delivered to a public institution, to be fed to livestock or converted into fertilizer.

**20753. Adulteration of flour. U. S. v. 58 Bags, etc. (F. D. C. No. 35516. Sample Nos. 62605-L to 62608-L, incl.)**

**LIBEL FILED:** September 29, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about March 16, April 21, May 20, and July 29, 1953, from Fort Worth and Greenville, Tex.

**PRODUCT:** 152 25-pound bags and 253 10-pound bags of flour at Pine Bluff, Ark.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 29, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**20754. Adulteration of flour and cornmeal. U. S. v. 29 Bags, etc. (F. D. C. No. 35666. Sample Nos. 53243-L to 53245-L, incl.)**

**LIBEL FILED:** September 29, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about August 11 and 25, 1953, from Stillwater, Okla.

**PRODUCT:** 48 50-pound bags of flour and 19 25-pound bags of cornmeal at England, Ark., in the possession of Faver's East Side.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, rodent excreta, and rodent urine; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 26, 1953. Default decree of condemnation. The court ordered that the products be delivered to a State institution, for use as animal feed.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20755. Adulteration of unpopped popcorn. U. S. v. 31 Bags \* \* \*. (F. D. C. No. 35660. Sample No. 56130-L.)**

**LIBEL FILED:** October 1, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about September 16, 1953, from Buffalo, N. Y. This was a return shipment.

**PRODUCT:** 31 100-pound bags of unpopped popcorn at Dixon, Ill.

**LABEL, IN PART:** (Bag) "Giant Yellow Pop Corn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

**DISPOSITION:** November 23, 1953. Default decree of condemnation and destruction.

**20756. Adulteration of rice. U. S. v. 38 Bales \* \* \*. (F. D. C. No. 35673. Sample No. 59774-L.)**

**LIBEL FILED:** October 1, 1953, Western District of North Carolina.

**ALLEGED SHIPMENT:** On or about December 28, 1951, from Mobile, Ala.

**PRODUCT:** 38 bales, each containing 36 1-pound bags, of rice at Asheville, N. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 4, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions, to be used as animal feed.

**20757. Adulteration of doughnut mix. U. S. v. 17 Bags \* \* \*. (F. D. C. No. 35691. Sample No. 61739-L.)**

**LIBEL FILED:** On or about October 19, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 1, 1953, from Evansville, Ind.

**PRODUCT:** 17 100-pound bags of doughnut mix at St. Joseph, Mo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 17, 1953. A default decree was entered providing for the delivery of the product to a public institution, for use as animal feed.

## FISH AND SHELLFISH

**20758. Adulteration of frozen ocean catfish fillets. U. S. v. 90 Cases \* \* \*. (F. D. C. No. 35032. Sample No. 70159-L.)**

**LIBEL FILED:** May 19, 1953, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about February 27, 1953, by Goldrie & Co., from New York, N. Y.

**PRODUCT:** 90 cases, each containing 8 blocks, of frozen ocean catfish fillets at Louisville, Ky.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** June 25, 1953. Default decree of condemnation and destruction.

**20759. Adulteration and misbranding of canned mackerel. U. S. v. 171 Cases \* \* \*. (F. D. C. No. 35017. Sample No. 8563-L.)**

**LIBEL FILED:** April 30, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about December 30, 1952, by French Sardine Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 171 cases, each containing 48 15-ounce cans, of mackerel at Rochester, N. Y.

**LABEL, IN PART:** (Can) "Eatwell Brand California Mackerel Water and Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** June 3, 1953. The French Sardine Co. of California, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.



**20760. Adulteration and misbranding of canned mackerel. U. S. v. 58 Cases \* \* \***  
(and 1 other seizure action). (F. D. C. Nos. 35033, 35034. Sample Nos. 59088-L, 59738-L.)

**LIBELS FILED:** May 11, 1953, Middle District of Georgia.

**ALLEGED SHIPMENT:** On or about November 13 and December 11 and 29, 1952, by French Sardine Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 107 cases, each containing 48 15-ounce cans, of mackerel at Athens and Fort Valley, Ga.

**LABEL, IN PART:** (Can) "Eatwell Brand California Mackerel Water and Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), jack mackerel had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was jack mackerel; and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** June 2 and 22, 1953. The French Sardine Co., of California, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20761. Adulteration of trout. U. S. v. 500 Pounds \* \* \*. (F. D. C. No. 35036.**  
Sample No. 65040-L.)

**LIBEL FILED:** May 13, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about December 4, 1952, and January 7, 1953, by Shapiro Fisheries, Inc., from Chicago, Ill.

**PRODUCT:** 500 pounds of trout in 9 boxes at Motley, Minn.

**LABEL, IN PART:** "Great Slave Lake-Northwest Territories Dr. Trout."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** July 28, 1953. Default decree of destruction.

**20762. Adulteration of frozen clams. U. S. v. 40 Boxes, etc. (F. D. C. No. 35025.**  
Sample Nos. 64233-L, 64234-L, 64236-L, 64237-L.)

**LIBEL FILED:** May 7, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about March 31, 1953, by the Kayler-Dahl Fish Co., from Petersburg, Alaska.

**PRODUCT:** 40 500-pound boxes and 43 50-pound cartons of frozen clams at Seattle, Wash.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained a poisonous and deleterious substance, paralytic shellfish toxin, which may have rendered the article injurious to health.

**DISPOSITION:** June 15, 1953. Default decree of condemnation and destruction.

**20763. Adulteration of crabmeat. U. S. v. 38 Cans \* \* \*. (F. D. C. No. 35549. Sample No. 46807-L.)**

**LIBEL FILED:** August 24, 1953, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about August 19, 1953, by the Reuther Seafood Co., from New Orleans, La.

**PRODUCT:** 38 1-pound cans of crabmeat at Atlanta, Ga. Examination showed that the product was contaminated with *E. coli*.

**LABEL, IN PART:** (Can) "Reuther's \* \* \* Reuther Seafood Co. Crabmeat Seasoned With Salt."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

**DISPOSITION:** October 2, 1953. Default decree of condemnation and destruction.

**20764. Adulteration of frozen breaded shrimp. U. S. v. 49 Cases, etc. (F. D. C. No. 35042. Sample Nos. 62303-L, 62304-L.)**

**LIBEL FILED:** May 15, 1953, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about August 4, 1952, from Chicago, Ill.

**PRODUCT:** 99 cases, each containing 24 10-ounce packages, of frozen breaded shrimp at Memphis, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 29, 1953. D. Canale & Co., Memphis, Tenn., having filed an answer to the libel without pleading ownership to the product and later having stated that it had no further interest in the proceeding and would not proceed further therein, judgment of condemnation was entered and the court ordered that the product be destroyed.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20765. Misbranding of canned peaches. U. S. v. 648 Cases \* \* \*. (F. D. C. No. 35639. Sample No. 59177-L.)**

**LIBEL FILED:** September 16, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 18, 1953, by the Bateman Canning Co., from Macon, Ga.

**PRODUCT:** 648 cases, each containing 24 cans, of peaches at Miami, Fla.

**LABEL, IN PART:** (Can) "Dixiana Net Wt. 1 lb. 13 ozs. Yellow Freestone Peaches Mixed pieces of irregular sizes and shape Packed in Heavy Syrup Packed by Bateman Canning Co., Macon, Ga."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peaches since the article failed to meet the test for tenderness as prescribed by the standard and the label failed to bear a statement that the article fell below such standard.



**DISPOSITION:** October 21, 1953. The Bateman Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### FRESH FRUIT

**20766. Adulteration of fresh blueberries. U. S. v. 10 Crates \* \* \*. (F. D. C. No. 35554. Sample No. 45575-L.)**

**LIBEL FILED:** August 13, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 12, 1953, by Everett Andersen, from Harrington, Maine.

**PRODUCT:** 10 crates, each containing 24 1-quart boxes, of fresh blueberries at Boston, Mass. Examination showed that the product contained maggots.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

**DISPOSITION:** September 8, 1953. Default decree of condemnation and destruction.

### VEGETABLES

**20767. Misbranding of canned cut green beans. U. S. v. 1,998 Cases \* \* \*. (F. D. C. No. 35022. Sample No. 3301-L.)**

**LIBEL FILED:** May 4, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 15, 1953, by D. E. Foote & Co., Inc., from Baltimore, Md.

**PRODUCT:** 1,998 cases, each containing 24 15½-ounce cans, of cut green beans at Los Angeles, Calif.

**LABEL, IN PART:** (Can) "Family Brand Cut Green Beans."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cut green beans since the de-seeded pods of the article contained more than 0.15 percent by weight of fibrous material and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** June 16, 1953. D. E. Foote & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20768. Adulteration of canned red kidney beans and canned spinach. U. S. v. 17 Cases, etc. (F. D. C. No. 35004. Sample Nos. 62063-L to 62065-L, incl.)**

**LIBEL FILED:** April 21, 1953, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about June 17, 1946, and September 9 and November 25, 1947, from Atkins, Ark., and Austin, Ind.

**PRODUCT:** 17 cases, each containing 24 1-pound, 4-ounce cans, and 72 cases, each containing 48 10½-ounce cans, of red kidney beans, and 46 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Danville, Ill. Examination showed that the products had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 29, 1953. Default decree of condemnation and destruction.

**20769. Adulteration of canned diced carrots and canned pimentos. U. S. v. 16 Cases, etc. (F. D. C. No. 35048. Sample Nos. 46786-L, 46789-L.)**

LIBEL FILED: May 20, 1953, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about January 23 and March 28, 1951, from New Freedom, Pa., and Brownsville, Tex.

PRODUCT: 16 cases, each containing 48 8¼-ounce cans, of diced carrots, and 26 cases, each containing 48 4-ounce cans, of pimentos, at Pascagoula, Miss. Examination showed that the products had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 19, 1953. Default decree of condemnation and destruction.

**20770. Misbranding of canned button mushrooms. U. S. v. 5 Cases \* \* \*. (F. D. C. No. 35039. Sample No. 58223-L.)**

LIBEL FILED: May 12, 1953, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about March 2, 1953, by Superior Canning Co., Inc., from Avondale, Pa.

PRODUCT: 5 cases, each containing 24 cans, of button mushrooms at Milwaukee, Wis.

LABEL, IN PART: (Can) "Superior Brand Drained Weight 16 Ounces Pennsylvania Cultivated Mushrooms Fancy Buttons."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Mushrooms Fancy Buttons" and the vignette on the label depicting fancy button mushrooms were false and misleading as applied to button mushrooms which were not fancy because of excessive blemished units and excessive open veil units; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short in drained weight.)

DISPOSITION: September 30, 1953. Default decree of condemnation. On October 16, 1953, the court ordered that the product be delivered to a Federal hospital, for consumption by the patients.

**20771. Adulteration of olives. U. S. v. 51 Cartons, etc. (F. D. C. No. 35474. Sample Nos. 55898-L, 55899-L.)**

LIBEL FILED: September 4, 1953, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 8, 1953, by the South Shore Sales Co., from Vermilion, Ohio.

PRODUCT: 51 cartons, each containing 12 21-ounce jars, and 72 cartons, each containing 12 13-ounce jars, of olives at New Castle, Pa.

LABEL, IN PART: (Jar) "Spanish Girl Olives For Salads."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and insect-damaged olives.

**DISPOSITION:** September 25, 1953. Default decree of condemnation and destruction.

**20772. Adulteration of olives. U. S. v. 23 Cases \* \* \*. (F. D. C. No. 35458. Sample No. 58333-L.)**

**LIBEL FILED:** August 18, 1953, Western District of Michigan; amended libel filed August 19, 1953.

**ALLEGED SHIPMENT:** On or about June 8, 1953, by the South Shore Packing Corp., from Vermilion, Ohio.

**PRODUCT:** 23 cases, each containing 4 jars, of olives at Holland, Mich.

**LABEL, IN PART:** (Jar) "South Shore Contents 1 Gallon Olives For Salads."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and insect-damaged olives.

**DISPOSITION:** October 13, 1953. Default decree of condemnation and destruction.

**20773. Misbranding of canned black-eyed peas. U. S. v. 173 Cases \* \* \*. (F. D. C. No. 34990. Sample No. 62621-L.)**

**LIBEL FILED:** April 8, 1953, Western District of Kentucky.

**ALLEGED SHIPMENT:** February 4, 1953, by the Ozark Packing Co., from Ozark, Ark.

**PRODUCT:** 173 cases, each containing 24 cans, of black-eyed peas at Paducah, Ky.

**LABEL, IN PART:** (Can) "Pride of Ozark Brand Fresh Shelled Blackeye Peas Contents 15½ Oz. Avoir."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

**DISPOSITION:** August 5, 1953. The Ozark Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20774. Adulteration of frozen spinach. U. S. v. 185 Cases \* \* \* (and 2 other seizure actions). (F. D. C. Nos. 34976, 35269, 35301. Sample Nos. 50879-L, 50880-L, 51367-L, 51368-L.)**

**LIBELS FILED:** April 23, May 25, and June 11, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 10, 13, 16, and 24, 1953, by the Southland Frozen Foods, from Plant City, Fla.

**PRODUCT:** 2,392 cases, each containing 24 14-ounce packages, of frozen spinach at Jersey City, N. J.

**LABEL, IN PART:** (Carton) "Asco Ideal Brand Chopped Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of a substantial amount of extraneous material.

DISPOSITION: July 30, 1953. The libel actions having been consolidated and Southland Frozen Foods, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion. As a result of the segregation operations, 790 cases were found unfit and were destroyed.

### TOMATOES AND TOMATO PRODUCTS

20775. Adulteration of canned tomatoes. U. S. v. 946 Cases \* \* \*. (F. D. C. No. 34245. Sample No. 53433-L.)

LIBEL FILED: November 21, 1952; libel amended June 8, 1953, Southern District of Illinois.

ALLEGED SHIPMENT: On or about September 22, 1952, by Thomas Roberts & Co., from Woodside, Del.

PRODUCT: 946 cases, each containing 24 cans, of tomatoes at Springfield, Ill.

LABEL, IN PART: (Can) "Pride of the Farm Brand Contents 1 Lb. 3 Oz. Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 28, 1954. William Frasco and Elvira Egisii, trading as the Italian American Import Co., having intervened and prayed to have the entry of a decree temporarily withheld, which was done, and thereafter having failed to show just cause for further delay in the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

20776. Adulteration of tomato puree. U. S. v. 71 Cases \* \* \*. (F. D. C. No. 35006. Sample Nos. 14334-L, 14335-L.)

LIBEL FILED: April 23, 1953, District of Colorado.

ALLEGED SHIPMENT: On or about March 23, 1951, from Nogales, Ariz.

PRODUCT: 71 cases, each containing 6 6-pound, 5-ounce cans, of tomato puree at Denver, Colo. Examination showed that the product had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 16, 1953. Default decree of condemnation and destruction.

20777. Adulteration of tomato puree. U. S. v. 46 Cases \* \* \*. (F. D. C. No. 35007. Sample No. 14334-L.)

LIBEL FILED: April 23, 1953, District of Colorado.

ALLEGED SHIPMENT: On or about March 23, 1951, from Nogales, Ariz.

PRODUCT: 46 cases, each containing 6 6-pound, 5-ounce cans, of tomato puree at Denver, Colo. Examination showed that the article had undergone chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** June 16, 1953. Default decree of condemnation and destruction.

**20778. Adulteration of tomato sauce. U. S. v. 28 Cases \* \* \*. (F. D. C. No. 35026. Sample No. 46923-L.)**

**LIBEL FILED:** May 11, 1953, Western District of Louisiana.

**ALLEGED SHIPMENT:** Prior to October 15, 1951, from Crystal Springs, Miss.

**PRODUCT:** 28 cases, each containing 100 4¾-ounce cans, of tomato sauce at Leesville, La. Examination showed that the product had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 22, 1953. Default decree of condemnation and destruction.

## NUTS

**20779. Adulteration of brazil nuts. U. S. v. 151 Bags \* \* \*. (F. D. C. No. 34983. Sample No. 45318-L.)**

**LIBEL FILED:** April 24, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about November 10, 1952, from Callao, Peru.

**PRODUCT:** 151 100-pound bags of brazil nuts at Somerville, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rancid nuts, and it was otherwise unfit for food by reason of the presence of empty shells. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 6, 1953. Default decree of condemnation and destruction.

**20780. Adulteration of brazil nuts. U. S. v. 1,100 Pounds \* \* \*. (F. D. C. No. 34982. Sample No. 45317-L.)**

**LIBEL FILED:** April 23, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about November 10, 1952, from Callao, Peru.

**PRODUCT:** 1,100 pounds of brazil nuts in 11 bags at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid and moldy nuts. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 6, 1953. Default decree of condemnation and destruction.

**20781. Adulteration of pecan granules. U. S. v. 14 Cartons \* \* \*. (F. D. C. No. 34978. Sample No. 45183-L.)**

**LIBEL FILED:** April 22, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 2, 1953, by the Gold Kist Pecan Growers, from Waycross, Ga.

**PRODUCT:** 14 30-pound cartons of pecan granules at Somerville, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of *E. coli*.

**DISPOSITION:** June 15, 1953. Default decree of condemnation and destruction.

**20782. Adulteration of pecan meats. U. S. v. 4 Cases \* \* \*. (F. D. C. No. 35015. Sample No. 29943-L.)**

**LIBEL FILED:** May 4, 1953, Eastern District of Washington.

**ALLEGED SHIPMENT:** On or about February 28, 1953, by Shawnee Warehouse & Cold Storage Co., Inc., from Shawnee, Okla.

**PRODUCT:** 4 30-pound cases of pecan meats at Yakima, Wash.

**LABEL, IN PART:** "Pecan Meats \* \* \* Harp's Oklahoma Brand \* \* \* Select Shelled Pecans \* \* \* Midget Pieces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

**DISPOSITION:** June 22, 1953. Default decree of condemnation and destruction.

**20783. Adulteration of pecan meats. U. S. v. 1 Carton \* \* \*. (F. D. C. No. 35021. Sample No. 8314-L.)**

**LIBEL FILED:** May 1, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about January 31, 1953, by Shawnee Warehouse & Cold Storage Co., Inc., from Shawnee, Okla.

**PRODUCT:** 1 30-pound carton of pecan meats at Latrobe, Pa.

**LABEL, IN PART:** "Midget Pieces Harp's Oklahoma Brand \* \* \* Select Shelled Pecans \* \* \* Pecan Meats."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects.

**DISPOSITION:** June 4, 1953. Default decree of condemnation. The court ordered that the product be delivered to a city institution, for use as animal feed.

**20784. Adulteration of pistachio nuts. U. S. v. 18 Bags \* \* \*. (F. D. C. No. 34980. Sample No. 23304-L.)**

**LIBEL FILED:** April 24, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 4, 1952, from Lataquie, Syria.

**PRODUCT:** 18 150-pound bags of pistachio nuts at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 10, 1953. Default decree of condemnation and destruction.

**20785. Adulteration of pumpkin seeds. U. S. v. 29 Bags, etc. (F. D. C. No. 35386. Sample Nos. 49631-L, 49632-L.)**

**LIBEL FILED:** August 14, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about November 24, 1952, from San Francisco, Calif.

**PRODUCT:** 229 100-pound bags of pumpkin seeds at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** August 25, 1953. The Agress Nut & Seed Co., Brooklyn, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 1,296 pounds of the product were found unfit and were destroyed.

## OLEOMARGARINE

**20786. Sale and offering for sale of colored oleomargarine. U. S. v. James Paolino (James Paolino & Sons). Plea of not guilty. Tried to the court and jury. Plea changed to guilty after introduction of Government's evidence. Defendant fined \$200 and placed on probation for 1 year. (F. D. C. No. 33763. Sample Nos. 44288-L, 44289-L.)**

**INDICTMENT RETURNED:** April 13, 1953, District of Rhode Island, against James Paolino, trading as James Paolino & Sons, Cranston, R. I.

**ALLEGED VIOLATION:** On or about May 1, 1952, the defendant, with intent to defraud and mislead, sold and offered for sale a number of packages which were labeled as butter but which contained colored oleomargarine or colored margarine.

**LABEL, IN PART:** (Package) "Prairie Creamery Butter Net Wt. 1 Lb. Made From Pasteurized Cream."

**NATURE OF CHARGE:** The article, when sold and offered for sale as described above, was not labeled as required by Section 407 (b) (3) with (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on the label and with (B) a statement of all the ingredients contained in such colored oleomargarine or colored margarine.

**DISPOSITION:** The defendant having entered a plea of not guilty, the case came on for trial before the court and jury on February 17, 1954. After the Government had completed the introduction of its evidence, the defendant changed his plea to that of guilty, and on March 15, 1954, the court fined the defendant \$200 and placed him on probation for 1 year.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20787. Adulteration of chili peppers and cinnamon. U. S. v. Aviation Coffee Co. Plea of guilty. Fine, \$500. (F. D. C. No. 34858. Sample Nos. 46705-L, 46706-L.)**

**INFORMATION FILED:** August 22, 1953, Western District of Texas, against the Aviation Coffee Co., a corporation, San Antonio, Tex.

**ALLEGED VIOLATION:** Between the approximate dates of June 18, 1952, and February 5, 1953, while quantities of chili peppers and cinnamon were being held for sale, the defendant caused quantities of the products to be placed in a building that was accessible to rodents and caused the products to be exposed to contamination by rodents.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence in the chili peppers of rodent-gnawed chili pods, rodent excreta, and rodent hairs, and by reason of the presence in the cinnamon of rodent excreta, insects, and insect fragments; and, Section 402 (a) (4), the articles were held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 7, 1954. The defendant having entered a plea of guilty, the court fined it \$500.

**20788. Adulteration and misbranding of chili peppers. U. S. v. 163 Bags, etc.** (F. D. C. Nos. 34991, 34992. Sample Nos. 39767-L, 39768-L.)

**LIBEL FILED:** April 13, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about February 9, 1953, from Mexico.

**PRODUCT:** 287 75-pound bags of unground chili peppers and 12 75-pound bags of ground chili peppers at Los Angeles and Santa Ana, Calif.

**RESULTS OF INVESTIGATION:** The article was a product of Africa. It previously having been offered for entry into the United States and found to be adulterated, it was exported to Mexico where it was repacked and reshipped to the United States.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested chili peppers, and of a decomposed substance by reason of the presence of moldy chili peppers.

Misbranding, Section 403 (a), the label statement "Product of Mexico" was false and misleading as applied to the article, which was not produced in Mexico.

**DISPOSITION:** February 5, 1954. Herbert Hischemoeller, Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

**20789. Adulteration of chili pepper. U. S. v. 25 Drums \* \* \*. (F. D. C. No. 34997. Sample No. 40344-L.)**

**LIBEL FILED:** April 15, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about March 6, 1953, by McClintock Stern & Co., from Los Angeles, Calif.

**PRODUCT:** 25 220-pound drums of chili pepper at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments.

**DISPOSITION:** October 23, 1953. Default decree of condemnation and destruction.

**20790. Adulteration of chili peppers. U. S. v. 51 Bags \* \* \*. (F. D. C. No. 34965. Sample No. 23302-L.)**

**LIBEL FILED:** April 24, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 21, 1953, from Lagos, Nigeria.

**PRODUCT:** 51 90-pound bags of chilies at New York, N. Y., in the possession of William M. Allison & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 29, 1953. William M. Allison & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and



removal of the unfit portion under the supervision of the Department of Health, Education and Welfare. 322 pounds of the product were found unfit and were denatured.

**20791. Adulteration and misbranding of black pepper. U. S. v. 10 Cartons \* \* \***  
(and 10 other seizure actions). (F. D. C. Nos. 27311, 27312, 27336 to 27343, incl., 27406. Sample Nos. 5772-K to 5775-K, incl., 5893-K to 5896-K, incl., 10881-K, 10882-K, 47121-K, 47122-K.)

**LIBELS FILED:** Between June 8 and 29, 1949, District of New Jersey, District of Massachusetts, District of Rhode Island, and Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of March 21 and May 18, 1949, by the Food Trading Corp. of America, from Brooklyn, N. Y.

**PRODUCT:** 25 6-pound cartons, 49 cases, each containing 12 1-pound cans, 33 cartons, each containing 12 1-pound canisters, 10 10-pound boxes, 10 6-pound boxes, and 34 1-pound cans of black pepper at Newark and Paterson, N. J., Boston, Mass., Providence, R. I., and Pittsburgh, Pa.

**LABEL, IN PART:** (Can, carton, box, and canister) "Maison Royal Brand Pure Black Pepper."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), pepper with salt added, in certain portions of the article, and a mixture of black pepper, buckwheat hulls, capsicum, salt, and unidentified plant material, in other portions of the article, had been substituted in whole or in part for black pepper.

Misbranding, Section 403 (a), the label designation "Pure Black Pepper" was false and misleading.

**DISPOSITION:** May 18, 1954. The Food Trading Corp. of America having appeared as claimant and the libel actions having been consolidated and removed for trial to the Eastern District of New York, but the claimant subsequently having withdrawn its claim, judgment of condemnation was entered and the product was ordered destroyed.

**20792. Adulteration and misbranding of lemon oil and orange oil. U. S. v. Industrial Frutal Works, Inc., and Samuel Schwartz. Pleas of guilty. Imposition of sentence against corporation suspended. Fine of \$400 against individual. (F. D. C. No. 32798. Sample Nos. 24028-L, 24029-L.)**

**INFORMATION FILED:** October 9, 1953, Southern District of New York, against Industrial Frutal Works, Inc., New York, N. Y., and Samuel Schwartz, president and secretary of the corporation.

**ALLEGED SHIPMENT:** Between the approximate dates of December 16, 1950, and April 10, 1951, from the State of New York into the State of New Jersey.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), mineral oil had been substituted in whole or in part for oil of lemon U. S. P. and oil of orange U. S. P.

Misbranding, Section 403 (a), the statements "Oil of Lemon, Calif., U. S. P." and "Oil of Orange, Calif., U. S. P." borne on the labels of the articles were false and misleading since such statements represented that the articles consisted entirely of oil of lemon and oil of orange, respectively, whereas the articles did not consist entirely of oil of lemon and oil of orange.

**DISPOSITION:** March 3, 1954. The defendants having entered pleas of guilty, the court suspended the imposition of sentence against the corporation and fined the individual \$400.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

20793. Adulteration of Mi-Vites tablets and Vi-Mineroms tablets and misbranding of Panules multiple vitamin candules. U. S. v. Chase Chemical Co. and Sydney Chasman. Plea of guilty entered by company to 5 counts of information and plea of guilty entered by individual to 1 count. Fine of \$500 against each defendant. (F. D. C. No. 33773. Sample Nos. 23481-L, 49056-L, 49057-L.)

INFORMATION FILED: April 20, 1953, District of New Jersey, against the Chase Chemical Co., a corporation, Newark, N. J., and Sydney Chasman, president of the corporation.

ALLEGED SHIPMENT: Between November 5, 1951, and January 30, 1952, from the State of New Jersey into the State of New York.

LABEL, IN PART: (Bottle) "Mi-Vites A concentrated Vitamin and Mineral Tablet containing seven essential vitamins and six essential minerals \* \* \* Steel Pharmaceutical Co. Distributors New York, N. Y. Three Mi-Vites Daily Provide: \* \* \* Vitamin A (Palmitate) 15,000 U. S. P. Units B<sub>1</sub> (Thiamine HCl) 15 Mg. \* \* \* D (Activated Ergosterol) 1500 U. S. P. Units \* \* \* Nicotinamide 30 Mg."; "Vi-Mineroms 9 Vitamins—5 Minerals \* \* \* Chase Chemical Company Pharmaceutical Chemists Newark, New Jersey \* \* \* Three tablets represent \* \* \* Vitamin B<sub>1</sub> (Thiamine Hydrochloride) 2 Mg. \* \* \* Vitamin D (Activated Ergosterol) 500 U. S. P. Units \* \* \* Iron (Sulfate) 10 Mg."; "Candules Improved Panules Multiple Vitamins Chase \* \* \* Each candule contains: \* \* \* Vitamin D (Irradiated Ergosterol) 1000 U. S. P. Units."

NATURE OF CHARGE: Mi-Vites tablets. Adulteration, Section 402 (b) (1), valuable constituents of the article, namely, vitamins A, B<sub>1</sub>, and D, and nicotinamide, had been in part omitted and abstracted from the article.

Vi-Mineroms tablets. Adulteration, Section 402 (b) (1), valuable constituents, namely, vitamin B<sub>1</sub>, vitamin D, and iron sulfate, had been in part omitted and abstracted from the article.

Panules multiple vitamin candules. Misbranding, Section 403 (a), the label statements "Each candule contains: \* \* \* Vitamin D \* \* \* 1000 U. S. P. Units" and "This product supplies in one candule the minimum daily adult requirement of \* \* \* 1¼ times this requirement of Vitamins \* \* \* D" were false and misleading. The statements represented and suggested that each candule of the article contained 1,000 U. S. P. units of vitamin D and that the article would supply in one candule 1¼ times the minimum daily adult requirement for vitamin D. Each candule of the article contained less than 1,000 U. S. P. units of vitamin D and would supply in one candule a smaller proportion of the minimum daily adult requirement for vitamin D than represented.

The information alleged also that two other products were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: December 18, 1953. The company having entered a plea of guilty to the 5 counts of the information and the individual having entered a plea of guilty to the count in the information relating to the quinine sulfate tablets, the court imposed a fine of \$500 against each defendant.



**20794. Adulteration and misbranding of vitamin and mineral tablets. U. S. v. 58 Bottles \* \* \*. (F. D. C. No. 35312. Sample No. 38088-L.)**

**LIBEL FILED:** July 10, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about January 14, 1953, from Cleveland, Ohio.

**PRODUCT:** 58 100-tablet bottles of vitamin and mineral tablets at New York, N. Y. Analyses showed that the tablets contained 76 percent of the declared amount of vitamin A and approximately 50 percent of the declared amount of vitamin D.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin A and vitamin D, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Tablet Contains: \* \* \* Vitamin A 5,000 U. S. P. units \* \* \* Vitamin D 500 U. S. P. units" was false and misleading as applied to the article, which contained less than 5,000 U. S. P. units of vitamin A and less than 500 U. S. P. units of vitamin D.

The article was alleged to be adulterated and misbranded while held for sale after shipment in interstate commerce. The libel alleged also that another article, consisting of vitamin tablets, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

**DISPOSITION:** December 15, 1953. Default decree of condemnation and destruction.

**20795. Adulteration and misbranding of vitamin capsules. U. S. v. 15 Bottles, etc. (F. D. C. No. 35300. Sample Nos. 14399-L to 14402-L, incl.)**

**LIBEL FILED:** June 15, 1953, District of Wyoming.

**ALLEGED SHIPMENT:** Prior to December 31, 1950, and on or about October 15 and November 1, 1951, from Detroit, Mich.

**PRODUCT:** 15 100-capsule bottles and 25 250-capsule bottles of vitamin B<sub>1</sub> capsules and 42 100-capsule bottles of vitamin B<sub>1</sub> and vitamin D capsules at Cheyenne, Wyo.

**NATURE OF CHARGE:** Adulteration Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the capsules (in all lots) and a valuable constituent, vitamin D, had been in part omitted or abstracted from the capsules (in the 42-bottle lot).

Misbranding, Section 403 (a), the label statements (15- & 25-bottle lots) "Each capsule contains: Vitamin B<sub>1</sub> \* \* \* 6 Mg. \* \* \* 1 capsule supplies 6 times the minimum daily requirement for vitamin B<sub>1</sub>" and (42-bottle lot) "Each capsule contains: \* \* \* 6 Mg. \* \* \* Thiamin Chloride \* \* \* 1,200 U. S. P. Units Vitamin D" were false and misleading as applied to the capsules, which contained (all lots) less than the stated amount of vitamin B<sub>1</sub> and (42-bottle lot) less than the stated amount of vitamin D.

The capsules were alleged to be adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 31, 1953. Default decree of condemnation. The court ordered that the product be delivered to a local hospital.

**20796. Adulteration and misbranding of vitamin tablets. U. S. v. 10 Bottles, etc. (F. D. C. No. 35358. Sample Nos. 38096-L, 38097-L.)**

**LIBEL FILED:** July 21, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about January 18, 1952, and April 3 and 9, 1953, from Newark, N. J.

**PRODUCT:** Vitamin tablets. 10 1,000-tablet bottles, 263 100-tablet bottles, 1 5,000-tablet drum, and 22 1,000-tablet bottles at Astoria, Long Island, N. Y.

Analyses disclosed that the tablets in the 22-bottle lot contained less than 60 percent of the declared amount of vitamin D and that the tablets in the other lots contained 64 percent of the declared amount of vitamin B<sub>1</sub> and less than 60 percent of the declared amount of vitamin D.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted or abstracted from the tablets in the 22-bottle lot; and valuable constituents, vitamin B<sub>1</sub> and vitamin D, had been in part omitted or abstracted from the tablets in the other lots.

Misbranding, Section 403 (a), the statement on the label of the bottles in the 22-bottle lot, which represented that 3 tablets would provide 1,500 U. S. P. units of vitamin D, and the statement on the labels of the other lots, which represented that each tablet contained 10 milligrams of vitamin B<sub>1</sub> and 100 U. S. P. units of vitamin D, were false and misleading.

The tablets in each of the above-mentioned lots were adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 16, 1953. Default decree of condemnation and destruction.

**20797. Adulteration and misbranding of B-Lixir and Neovis. U. S. v. 14 Bottles, etc. (F. D. C. No. 35357. Sample Nos. 59103-L, 59105-L.)**

**LIBEL FILED:** July 15, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about December 5, 1952, and April 17, 1953, by the First Texas Chemical Mfg. Co., from Dallas, Tex.

**PRODUCT:** 14 1-pint bottles of B-Lixir and 12 1-pint bottles of Neovis at Atlanta, Ga. Analyses showed that the B-Lixir contained 61 percent of the declared amount of vitamin B<sub>1</sub> and that the Neovis contained less than 50 percent of the declared amounts of vitamin B<sub>1</sub> and vitamin B<sub>12</sub>.

**NATURE OF CHARGE:** B-Lixir. Adulteration Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article. Misbranding, Section 403 (a), the label statement "Each fluidounce represents: Thiamin Hydrochloride 7.207 mgm." was false and misleading as applied to the article, which contained less than the declared amount of thiamine hydrochloride (vitamin B<sub>1</sub>) per fluid ounce.

Neovis. Adulteration, Section 402 (b) (1), valuable constituents, vitamin B<sub>1</sub> and vitamin B<sub>12</sub>, had been in part omitted or abstracted from the article. Misbranding, Section 403 (a), the label statement "Each fluidounce represents: \* \* \* Vitamin B<sub>12</sub> ----- 10 mcg. Thiamin Hydrochloride (B<sub>1</sub>) ----- 3 mg." was false and misleading as applied to the article, which contained less than the declared amounts of vitamin B<sub>12</sub> and vitamin B<sub>1</sub> per fluid ounce.

**DISPOSITION:** August 31, 1953. Default decree of condemnation and destruction.

**20798. Misbranding of brewer's yeast tablets. U. S. v. 18 Drums, etc. (F. D. C. No. 35322. Sample Nos. 8564-L, 8569-L.)**

**LIBEL FILED:** June 20, 1953, Northern District of New York.



**ALLEGED SHIPMENT:** On or about June 1, 1945, by Sharp & Dohme, from Philadelphia, Pa.

**PRODUCT:** Brewer's yeast tablets. 18 drums, each containing 20,000 tablets, and 40 bottles, each containing 1,000 tablets, at Auburn, N. Y., in the possession of Vita Laboratories Pharmaceutical Chemists.

**RESULTS OF INVESTIGATION:** When the tablets were shipped in interstate commerce, they were packaged in bulk drums, and, upon their receipt by the consignee, a number of the tablets were repackaged into bottles.

**LABEL, IN PART:** (Drum) "Sugar-Coated Tablets Brewer's Yeast 6 grains"; (bottle) "1000 S. C. T. Theabex Vitamin B-complex \* \* \* Each Theabex contains: thiamin Chloride (Vitamin B<sub>1</sub>) Riboflavin (Vitamin B<sub>2</sub>) Pyridoxine (Vitamin B<sub>6</sub>) Nicotinic Acid (P-P Factor) Pantothenic Acid (Filtrate Factor) and other natural factors of the Vitamin B-complex found in concentrated brewer's yeast \* \* \* Sole Distributors Vita Laboratories Pharmaceutical Chemists Auburn, New York."

**NATURE OF CHARGE:** Tablets in drums. Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content, and its label failed to bear, as required by the regulations, a statement of the kind and quantities of vitamins supplied by the article when consumed in a specified quantity during a period of one day. The article was misbranded in this respect when introduced into and while in interstate commerce.

Tablets in bottles. Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin B<sub>1</sub> and vitamin B<sub>2</sub> and the amount of vitamin B<sub>6</sub> supplied by the article when consumed in a specified quantity during a period of one day; and the label of the article failed also to bear the statement "The need for pantothenic acid in human nutrition has not been established." The article was misbranded in this respect while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 31, 1953. Vita Laboratories, Auburn, N. Y., claimant, having admitted the truth of the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

On March 9, 1954, the 18 drums of the product were destroyed by the U. S. marshal.

**20799. Adulteration and misbranding of Matabs. U. S. v. 285 Bottles, etc.**  
(F. D. C. No. 35657. Sample No. 52620-L.)

**LIBEL FILED:** September 25, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about March 6 and June 13 and 22, 1953, by Morse Laboratories, Inc., from New York, N. Y.

**PRODUCT:** 285 100-tablet bottles and 69 500-tablet bottles of Matabs at Irvington, N. J.

**LABEL, IN PART:** (Bottles) "Matabs Improved Each tablet contains \* \* \* Ferrous Sulfate 64.8 mg. \* \* \* In Pregnancy and during lactation three tablets daily provides 2¾ times M. D. R. of Iron."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, iron, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each tablet contains \* \* \* Ferrous Sulfate 64.8 mg." was false and misleading as applied to the article, which contained only 1.3 milligrams of ferrous sulfate per tablet; and the label statement "In Pregnancy and during lactation three tablets daily provides 2¾ times M. D. R. of Iron" was false and misleading since the article would supply to pregnant or lactating women only approximately 1/19 of the minimum daily requirements for iron.

DISPOSITION: October 29, 1953. Default decree of condemnation and destruction.

20800. Adulteration and misbranding of Biolac. U. S. v. 760 Cases \* \* \*.  
(F. D. C. No. 35431. Sample No. 54252-L.)

LIBEL FILED: July 17, 1953, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about April 21, 1953, by the Borden Co., from Elgin, Ill.

PRODUCT: 760 cases, each containing 12 cans, of Biolac at Detroit, Mich. Analyses showed that the product contained 75 percent of the declared amount of riboflavin and approximately 60 percent of the declared amount of vitamin D.

LABEL, IN PART: (Can) "13 Fl. Ozs. Net Biolac New Improved Modified Milk for Infants \* \* \* This Tin Contains 2 Milligrams Vitamin B<sub>2</sub> (Riboflavin), 400 U. S. P. Units Vitamin D."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin D and riboflavin, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "This Tin Contains 2 Milligrams Vitamin B<sub>2</sub> (Riboflavin), 400 U. S. P. Units Vitamin D" was false and misleading as applied to the article, which contained less than those amounts of riboflavin and vitamin D.

DISPOSITION: November 18, 1953. The shipper of the product having indicated that it did not propose to contest the matter, judgment of condemnation was entered and the court ordered that the United States marshal deliver the product to a public institution.

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<sup>1</sup> (20786) Prosecution contested.

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canned tomatoes-----	20775	brewer's yeast tablets-----	20798
Schwartz, Samuel:			
lemon oil and orange oil-----	20792		

<sup>1</sup> (20786) Prosecution contested.





# THE

# FEDERAL REGISTER

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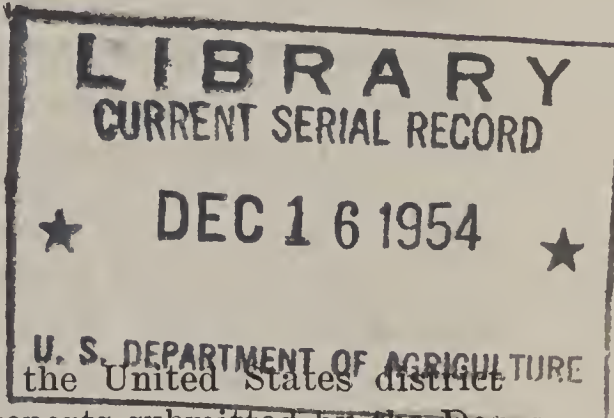
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20801-20850

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *November 30, 1954.*

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**CEREALS AND CEREAL PRODUCTS****BAKERY PRODUCTS**

**20801. Adulteration of bread. U. S. v. Safeway Stores, Inc. Plea of guilty.** Fine of \$5,000, plus costs. (F. D. C. No. 35130. Sample Nos. 40977-L, 40981-L, 40983-L, 40985-L.)

**INFORMATION FILED:** August 21, 1953, Western District of Washington, against Safeway Stores, Inc., Seattle, Wash.

**ALLEGED SHIPMENT:** On or about December 17 and 23, 1952, from the State of Washington into the State of Idaho.

**LABEL, IN PART:** "Mrs. Wright's Enriched White Bread [or "Wheat Bread"] \* \* \* Fairfax Bread Company Head Office: San Francisco, Calif." and "Sky-lark Crushed Wheat Bread \* \* \* Fairfax Bread Company Head Office—San Francisco, Calif."

**NATURE OF CHARGE:** Adulteration Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 21, 1953. The defendant having entered a plea of guilty, the court fined it \$5,000, plus costs.

**20802. Adulteration of bread. U. S. v. Jamie Mills, Inc. Plea of guilty. Fine, \$150.** (F. D. C. No. 35104. Sample Nos. 32703-L, 33278-L, 33279-L.)

**INFORMATION FILED:** June 24, 1953, Northern District of Ohio, against Jamie Mills, Inc., Rittman, Ohio.

**ALLEGED SHIPMENT:** On or about February 13 and October 26, 1952, from the State of Ohio into the State of Illinois.

**LABEL, IN PART:** "Jamie Mills French Bread [or "Wheat Soya Bread" or "White Bread"]."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 3, 1953. The defendant having entered a plea of guilty, the court fined it \$150.

**FLOUR**

**20803. Adulteration of flour. U. S. v. 87 Bags, etc. (F. D. C. No. 35055. Sample Nos. 20500-L to 20502-L, incl.)**

**LIBEL FILED:** May 20, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about December 5, 1952, and February 2 and 27, 1953, from Omaha, Nebr., Great Falls, Mont., and Minneapolis, Minn.

**PRODUCT:** 161 50-pound bags of flour at Sioux Falls, S. Dak., in the possession of the Sunshine Food Markets.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** June 22, 1953. The Sunshine Food Markets having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was segregated, with the result that 54 bags of the product were found unfit and were destroyed.

**20804. Adulteration of flour. U. S. v. 328 Bags \* \* \*. (F. D. C. No. 35056. Sample No. 65049-L.)**

**LIBEL FILED:** May 20, 1953, District of North Dakota.

**ALLEGED SHIPMENT:** On or about March 31, 1953, from Great Falls, Mont.

**PRODUCT:** 328 50-pound bags of flour at Minot, N. Dak., in the possession of Oppen's, Inc.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 5, 1953. Oppen's, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the claimant, upon the filing of a bond, make an inspection of the product in the presence of inspectors of the Department of Health, Education, and Welfare to determine the portion of the product which was unfit. As a result of this inspection, 3,857 pounds of the product were found unfit and were denatured for use as animal feed.

**20805. Adulteration of flour. U. S. v. 8 Bags \* \* \*. (F. D. C. No. 35084. Sample No. 55859-L.)**

**LIBEL FILED:** June 19, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 4, 1952, from Lincoln, Nebr.

**PRODUCT:** 8 50-pound bags of flour at Clearfield, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20806. Adulteration of flour. U. S. v. 9 Bags \* \* \*. (F. D. C. No. 35073. Sample No. 55852-L.)**

**LIBEL FILED:** June 4, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 22, 1953, from Springfield, Ill.

**PRODUCT:** 9 100-pound bags of flour at Pittsburgh, Pa., in the possession of the Bold Baking Corp.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 5, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20807. Adulteration of flour and walnuts. U. S. v. 4 Bags, etc. (F. D. C. No. 35074. Sample Nos. 64915-L to 64917-L, incl.)**

**LIBEL FILED:** June 11, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about November 2, 1952, and March 10, 1953, from Los Angeles, Calif., and Grand Forks, N. Dak.

**PRODUCT:** 4 100-pound bags and 95 50-pound bags of flour and 12 25-pound bags and 4 100-pound bags of walnuts at Hibbing, Minn., in the possession of the Kleffman Mercantile Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 10, 1953. The Kleffman Mercantile Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare.

The flour was segregated, with the result that 30 50-pound bags and 3 100-pound bags were found unfit and were denatured for use as animal feed. The walnuts also were segregated, with the result that 200 pounds were found unfit and were destroyed.

### MISCELLANEOUS CEREALS

**20808. Adulteration of rice. U. S. v. 61 Bags \* \* \*. (F. D. C. No. 35089. Sample No. 55862-L.)**

**LIBEL FILED:** June 24, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about January 1, 1953, from Houston, Tex.

**PRODUCT:** 61 25-pound bags of rice at Pittsburgh, Pa., in the possession of the Wilton Storage Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 5, 1953. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

**20809. Adulteration of wheat. U. S. v. Gackle Bros. Grain Co. Plea of guilty. Fine, \$300. (F. D. C. No. 35129. Sample Nos. 20262-L, 20411-L.)**

**INFORMATION FILED:** June 4, 1953, District of North Dakota, against the Gackle Bros. Grain Co., a corporation, Kulm, N. Dak.



**ALLEGED SHIPMENT:** On or about January 3, 1953, from the State of North Dakota into the State of Minnesota.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of musty and heat-damaged wheat.

**DISPOSITION:** June 23, 1953. The defendant having entered a plea of guilty, the court fined it \$300.

**20810. Adulteration of wheat. U. S. v. 108,190 Pounds \* \* \*. (F. D. C. No. 35092. Sample No. 20606-L.)**

**LIBEL FILED:** June 30, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about June 10, 1953, by the Farmers Union Grain Co. of Epping, from Springbrook, N. Dak.

**PRODUCT:** 1 carload of wheat at Hastings, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** July 28, 1953. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by cleaning and scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the reprocessing operations, 4,930 pounds of the product were found unfit and were destroyed.

**20811. Adulteration of wheat. U. S. v. 1 Carload \* \* \*. (F. D. C. No. 35068. Sample No. 65286-L.)**

**LIBEL FILED:** June 4, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about May 19, 1953, by the Clark Roller Feed Mill, from Clark, S. Dak.

**PRODUCT:** 1 carload of wheat at Hastings, Minn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** June 8, 1953. The Clark Roller Feed Mill, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by scouring, under the supervision of the Department of Health, Education, and Welfare. As a result of the scouring operations, 4,780 pounds of the product were found unfit and were destroyed, and 85,830 pounds were found to be satisfactory.

**DAIRY PRODUCTS****BUTTER**

**20812. Adulteration of butter. U. S. v. Beaver Meadow Creamery, Inc., and Joseph J. Kirk. Pleas of nolo contendere. Fine of \$200 against each defendant, plus costs. (F. D. C. No. 35117. Sample Nos. 7693-L, 49804-L.)**

**INFORMATION FILED:** July 13, 1953, Western District of Pennsylvania, against Beaver Meadow Creamery, Inc., Du Bois, Pa., and Joseph J. Kirk, president of the corporation.

**ALLEGED SHIPMENT:** On or about February 22, 1952, and January 14, 1953, from the State of Pennsylvania into the States of New York and New Jersey.

**LABEL, IN PART:** (Portion) "Beaver Meadow Brand Creamery Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** July 30, 1953. The defendants having entered pleas of nolo contendere, the court fined each defendant \$200, plus costs.

**20813. Misbranding of butter. U. S. v. David E. Glatt (Sni-A-Bar Creamery Co.). Plea of guilty. Fine of \$150, plus costs. (F. D. C. No. 35094. Sample Nos. 16679-L, 16680-L.)**

**INFORMATION FILED:** June 23, 1953, Western District of Missouri, against David E. Glatt, trading as the Sni-A-Bar Creamery Co., Independence, Mo.

**ALLEGED SHIPMENT:** On or about July 24, 1952, from the State of Missouri into the State of Kansas.

**LABEL, IN PART:** "5 Lbs. Net Fine Quality Creamery Butter Patties."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. The label statement "5 Lbs. Net" was inaccurate since the cartons of the article contained less than 5 pounds net.

**DISPOSITION:** July 10, 1953. The defendant having entered a plea of guilty, the court fined him \$150, plus costs.

**CHEESE**

**20814. Adulteration and misbranding of pasteurized process cheese food and pasteurized process cheese. U. S. v. Bluebird Dairy Products Corp., Michael A. Russo, John Russo, and Joseph P. Russo. Pleas of guilty. On adulteration counts of information, corporation fined \$500, John Russo and Michael A. Russo each fined \$600, and Joseph P. Russo \$300. On misbranding counts, imposition of sentence suspended as to all defendants. (F. D. C. No. 33806. Sample Nos. 6247-L, 6605-L, 26140-L to 26143-L, incl.)**

**INFORMATION FILED:** June 4, 1953 Southern District of New York, against the Bluebird Dairy Products Corp., New York, N. Y., Michael A. Russo, president, John Russo, vice president, and Joseph P. Russo, secretary-treasurer.



**ALLEGED SHIPMENT:** On or about February 25, March 25, and April 7, 1952, from the State of New York, into the States of Rhode Island, Pennsylvania, and New Jersey.

**LABEL, IN PART:** (Carton) "Bluebird Pasteurized Process Cheese Food" and "Village Cheese Pasteurized Process American."

**NATURE OF CHARGE:** Pasteurized process cheese food. Adulteration, Section 402 (b) (2), a product containing less than 23 percent of fat and more than 44 percent of moisture was substituted for pasteurized process cheese food. Misbranding, Section 403 (a), the label statement "Not more than 44% moisture, not less than 23% fat" was false and misleading; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for pasteurized process cheese food since it contained less than 23 percent of fat and more than 44 percent of moisture. Further misbranding, Section 403 (g) (2), the article as packaged in the cartons was contained in a pouch, and the pouch label failed to bear the name of the food specified in the definition and standard of identity; and the label failed to bear the common name of the optional ingredient, disodium phosphate.

Pasteurized process cheese. Adulteration, Section 402 (b) (2), a product, the solids of which contained less than 50 percent of fat and more than 40 percent of moisture, was substituted for pasteurized process cheese. Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for pasteurized process cheese in that it contained in its solids less than 50 percent of fat and more than 40 percent of moisture.

**DISPOSITION:** February 15, 1954. Pleas of guilty having been entered, the court imposed on the adulteration counts of the information a fine of \$500 against the corporation, fines of \$600 against both John Russo and Michael A. Russo, and a fine of \$300 against Joseph P. Russo. On the misbranding counts, the court suspended the imposition of sentence as to all defendants.

### MILK

**20815. Adulteration of dehydrated goat's milk. U. S. v. 604 Cans \* \* \*. (F. D. C. No. 35001. Sample No. 8075-L.)**

**LIBEL FILED:** April 20, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about July 31, 1948, from Oakland, Calif.

**PRODUCT:** 604 8-ounce cans of dehydrated goat's milk at Pittsburgh, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 4, 1953. Default decree of condemnation. The court ordered that the product be delivered to a city institution, for use as animal feed.

### FISH AND SHELLFISH

**20816. Adulteration of frozen yellow-tail flounders. U. S. v. 3,275 Pounds \* \* \*. (F. D. C. No. 35217. Sample No. 50077-L.)**

**LIBEL FILED:** May 4, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 11, 1952, from various shippers in Massachusetts.

**PRODUCT:** 3,275 pounds of frozen yellow-tail flounders at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 20, 1953. Default decree of condemnation and destruction.

**20817. Adulteration of trout. U. S. v. 335 Pounds \* \* \*. (F. D. C. No. 35052. Sample No. 20595-L.)**

**LIBEL FILED:** May 19, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about May 7, 1953, by Shapiro Fisheries, Inc., from Chicago, Ill.

**PRODUCT:** 335 pounds of trout at Minneapolis, Minn.

**LABEL, IN PART:** (Box) "Great Slave Lake Trout 60 Lbs. Net Product of Canada."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** July 30, 1953. Default decree of destruction.

**20818. Adulteration of frozen yellow pike, frozen whitefish, and frozen buffalo fish. U. S. v. 313 Pounds, etc. (F. D. C. No. 35220. Sample Nos. 50078-L to 50080-L, incl.)**

**LIBEL FILED:** May 8, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 9, 1953, from Lakewood, N. J.

**PRODUCT:** 313 pounds of frozen yellow pike, 432 pounds of frozen whitefish, and 476 pounds of frozen buffalo fish at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances by reason of the presence of decomposed fish. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** May 26, 1953. Default decree of condemnation and destruction.

**20819. Adulteration of frozen whitefish. U. S. v. 773 Pounds \* \* \*. (F. D. C. No. 35225. Sample No. 50083-L.)**

**LIBEL FILED:** May 8, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 20, 1952, from Wiarton, Ontario, Canada.

**PRODUCT:** 773 pounds of frozen whitefish in 16 boxes at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 2, 1953. Default decree of condemnation and destruction.

**20820. Adulteration of frozen scallops. U. S. v. 31 Cartons \* \* \*. (F. D. C. No. 35236. Sample No. 50082-L.)**

**LIBEL FILED:** May 13, 1953, Southern District of New York.



**ALLEGED SHIPMENT:** On or about April 13, 14, and 17, 1953, from Provincetown, Mass.

**PRODUCT:** 31 5-pound cartons of frozen scallops at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed scallops. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 2, 1953. Default decree of condemnation and destruction. The court ordered that a portion of the product be delivered to the Department of Health, Education, and Welfare, and that the remainder be destroyed.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20821. Misbranding of canned cherries. U. S. v. 149 Cases \* \* \*. (F. D. C. No. 35626. Sample No. 76061-L.)**

**LIBEL FILED:** September 16, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 4, 1953, by Starr Foods, Inc., from Salem, Oreg.

**PRODUCT:** 149 cases, each containing 48 cans, of cherries at New York, N. Y.

**LABEL, IN PART:** (Can) "Sherman's Arcadia Brand Net Wt. 8 Oz. Avd. Dark Sweet Cherries Packed In Water No Sugar Or Salt Added \* \* \* Dietetic Pack."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cherries since more than 15 percent by count of the cherries in the cans were blemished with skin discoloration and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** November 30, 1953. Sherman Foods, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### DRIED FRUIT

**20822. Adulteration of dates. U. S. v. 5 Butts \* \* \*. (F. D. C. No. 35079. Sample No. 65108-L.)**

**LIBEL FILED:** June 16, 1953, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about February 22, 1952, from Chicago, Ill.

**PRODUCT:** 5 70-pound butts of dates at Fort Atkinson, Wis.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 29, 1953. Default decree of forfeiture and destruction.

**20823. Adulteration of dates. U. S. v. 3 Boxes \* \* \*. (F. D. C. No. 35054. Sample No. 20499-L.)**

**LIBEL FILED:** May 20, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about September 25, 1951, from Chicago, Ill.

**PRODUCT:** 3 70-pound boxes of dates at Yankton, S. Dak.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 20, 1953. The owner of the product having admitted the allegations of the libel and consented to the disposition of the product without further notice, judgment of condemnation was entered and the court ordered that the product be destroyed.

### VEGETABLES

**20824. Adulteration of dried lima beans. U. S. v. 265 Bags, etc. (F. D. C. No. 35648. Sample Nos. 2271-L, 2272-L.)**

**LIBEL FILED:** September 18, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about November 1, 1952, and February 18, 1953, from Crows Landing, Calif.

**PRODUCT:** 265 100-pound bags of dried calico lima beans and 350 100-pound bags of dried white lima beans at Jacksonville, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect excreta, and insect webbing. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 29, 1953. Frank D. Powers Co., Inc., Jacksonville, Fla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for recleaning and reprocessing under the supervision of the Department of Health, Education, and Welfare. As a result of these operations, 11¾ 100-pound bags of lima beans were found unfit.

**20825. Adulteration of canned black-eyed peas. U. S. v. 43 Cases \* \* \*. (F. D. C. No. 35515. Sample Nos. 18549-L, 74453-L.)**

**LIBEL FILED:** September 28, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about July 18, 1953, by the Steele Canning Co., from Springdale, Ark.

**PRODUCT:** 43 cases, each containing 24 1-pound cans, of black-eyed peas at Riverside, Calif.

**LABEL, IN PART:** "Del Haven Blackeyed Peas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect infestation.

**DISPOSITION:** October 27, 1953. Default decree of condemnation and destruction.

**20826. Adulteration of dried black-eyed peas. U. S. v. 175 Bags \* \* \*. (F. D. C. No. 35081. Sample No. 47281-L.)**

**LIBEL FILED:** June 16, 1953, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about November 9, 1948, from Lisbon, Portugal.

**PRODUCT:** 175 100-pound bags of dried black-eyed peas at New Orleans, La.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets, live insects, insect-damaged peas, and insect webbing. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 16, 1953. Default decree of condemnation and destruction.

### TOMATOES AND TOMATO PRODUCTS

**20827. Misbranding of canned tomatoes. U. S. v. 998 Cases \* \* \*. (F. D. C. No. 35206. Sample No. 44620-L.)**

**LIBEL FILED:** April 27, 1953, District of Maine.

**ALLEGED SHIPMENT:** On or about March 30, 1953, by the Hopewell Canning Co., from Hopewell, Md.

**PRODUCT:** 998 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Portland, Maine.

**LABEL, IN PART:** (Can) "Iona Tomatoes Net Wt. 1 Lb. 3 Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** May 28, 1953. The Hopewell Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20828. Misbranding of canned tomatoes. U. S. v. 898 Cases \* \* \*. (F. D. C. No. 35207. Sample No. 6701-L.)**

**LIBEL FILED:** April 24, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about March 18, 1953, by the Hopewell Canning Co., from Hopewell, Md.

**PRODUCT:** 898 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Somerville, Mass.

**LABEL, IN PART:** (Can) "Iona Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel, and the label failed to bear a statement that the article fell below such standard.

**DISPOSITION:** May 28, 1953. The Hopewell Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

**20829. Adulteration of tomato juice. U. S. v. H. C. Hemingway & Co. Plea of guilty. Fine, \$600. (F. D. C. No. 35109. Sample Nos. 8257-L, 44740-L, 54213-L.)**

**INFORMATION FILED:** July 21, 1953, Western District of New York, against H. C. Hemingway & Co., a corporation, doing business at Auburn and Clyde, N. Y.

**ALLEGED SHIPMENT:** On or about October 2, 17, and 29, 1952, from the State of New York into the States of Michigan, West Virginia, and Massachusetts.

**LABEL, IN PART:** (Can) "Alpine Tomato Juice Contents 1 qt. 14 fl. oz.," "IGA Tomato Juice Contents 1 qt. 14 fl. oz. Packed for Independent Grocers Alliance Distributing Company," and "Ken-more Brand Tomato Juice Contents 1 qt. 14 fl. oz. Packed for Kennedy & Co., Inc. S. K. Ames, Inc. Cambridge, Mass."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** August 31, 1953. The defendant having entered a plea of guilty, the court fined it \$600.

**20830. Adulteration of tomato paste. U. S. v. 19,976 Cans \* \* \*. (F. D. C. No. 35213. Sample No. 73331-L.)**

**LIBEL FILED:** May 8, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** The product was imported from a foreign country on a date unknown.

**PRODUCT:** 19,976 14½-ounce cans of tomato paste at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Gschwindt Extrait De Tomates \* \* \* Hungarian Tomato Paste" or "Aureol Suritett Paradicsom \* \* \* High Concentrated Hungarian Tomato Paste \* \* \* Hungarian Product."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 24, 1953. Default decree of condemnation and destruction.

## NUTS\*

**20831. Adulteration of cashew nuts. U. S. v. 5 Tins \* \* \*. (F. D. C. No. 35076. Sample No. 54663-L.)**

**LIBEL FILED:** June 11, 1953, Eastern District of Michigan.

**ALLEGED SHIPMENT:** On or about February 16, 1953, from New York, N. Y.

**PRODUCT:** 5 25-pound tins of cashew nuts at Bay City, Mich.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 20, 1953. Default decree of condemnation and destruction.

**20832. Adulteration of shelled peanuts. U. S. v. 53 Bags \* \* \*. (F. D. C. No. 35083. Sample No. 65104-L.)**

**LIBEL FILED:** June 10, 1953, Western District of Wisconsin.

**ALLEGED SHIPMENT:** On or about May 6, 1953, from Franklin, Va.

**PRODUCT:** 53 100-pound bags of shelled peanuts at Madison, Wis., in the possession of Red Dot Foods, Inc.

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\*See also No. 20807.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 17, 1953. Red Dot Foods, Inc., claimant, having admitted that the product was subject to condemnation, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and decharacterization of the unfit portion, under the supervision of the Food and Drug Administration. The product was segregated, with the result that 505 pounds were found unfit and were denatured.

**20833. Adulteration of unshelled peanuts. U. S. v. 17 Bags \* \* \*. (F. D. C. No. 35062. Sample No. 20159-L.)**

**LIBEL FILED:** June 8, 1953, District of South Dakota.

**ALLEGED SHIPMENT:** On or about December 22, 1952, from Suffolk, Va.

**PRODUCT:** 17 100-pound bags of unshelled peanuts at Rapid City, S. Dak., in the possession of the Black Hills Albright Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 2, 1953. The Black Hills Albright Co., Rapid City, S. Dak., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was segregated, with the result that 701 pounds of the product were found unfit and were destroyed.

**20834. Adulteration of pine nuts. U. S. v. 314 Pounds. (F. D. C. No. 35050. Sample No. 43275-L.)**

**LIBEL FILED:** May 22, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about April 20, 1953, from Honolulu, T. H. This was a return shipment.

**PRODUCT:** 314 pounds of pine nuts in 5 bags at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and otherwise decomposed pine nuts.

**DISPOSITION:** August 19, 1953. Default decree of condemnation and destruction.

## POULTRY

**20835. Adulteration of dressed poultry. U. S. v. Hartford Poultry, Inc. Plea of nolo contendere. Fine, \$250. (F. D. C. No. 35095. Sample No. 49541-L.)**

**INFORMATION FILED:** June 19, 1953, District of Connecticut, against Hartford Poultry, Inc., Hartford, Conn.

**ALLEGED SHIPMENT:** On or about November 12, 1952, from the State of Connecticut into the State of New Jersey.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; and, Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased poultry, and was in part the product of an animal, namely, poultry, that had died otherwise than by slaughter.

**DISPOSITION:** September 21, 1953. The corporation having entered a plea of nolo contendere, the court fined it \$250.

**20836. Adulteration of dressed poultry. U. S. v. 991 Pounds \* \* \*. (F. D. C. No. 35215. Sample No. 45320-L.)**

**LIBEL FILED:** April 29, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 23, 1953, by the Rosen Poultry Co., from Danielson, Conn.

**PRODUCT:** 991 pounds of dressed poultry in 14 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 8, 1953. Default decree of condemnation and destruction.

**20837. Adulteration of dressed poultry. U. S. v. 500 Pounds \* \* \*. (F. D. C. No. 35219. Sample No. 44630-L.)**

**LIBEL FILED:** May 1, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 21, 1953, by the Rosen Poultry Co., from Danielson, Conn.

**PRODUCT:** 500 pounds of dressed poultry in 8 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with crop material, and it was otherwise unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 8, 1953. Default decree of condemnation and destruction.

**20838. Adulteration of dressed poultry. U. S. v. 202 Pounds \* \* \*. (F. D. C. No. 35208. Sample No. 45319-L.)**

**LIBEL FILED:** April 27, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about April 14, 1953, by the Rosen Poultry Co., from Danielson, Conn.

**PRODUCT:** 202 pounds of dressed poultry in 4 crates at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirty birds, and it was otherwise unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 8, 1953. Default decree of condemnation and destruction.

**20839. Adulteration of dressed poultry. U. S. v. 580 Pounds \* \* \*. (F. D. C. No. 35383. Sample No. 45574-L.)**

**LIBEL FILED:** August 7, 1953, District of Massachusetts.



**ALLEGED SHIPMENT:** On or about August 6, 1953, by the Maplewood Packing Co., from Belfast, Maine.

**PRODUCT:** 580 pounds of dressed poultry in 9 crates at Roxbury (Boston), Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with feathers and crop material, and it was otherwise unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** September 14, 1953. Default decree of condemnation and destruction.

**20840. Adulteration of dressed poultry. U. S. v. 8 Crates \* \* \*. (F. D. C. No. 35216. Sample No. 49563-L.)**

**LIBEL FILED:** May 5, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about April 6, 1953, by the Dodge-Freedman Poultry Co., from Concord, N. H., and by the New Hampshire Poultry Co., from Manchester, N. H.

**PRODUCT:** 8 crates of dressed poultry at Bronx, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

**DISPOSITION:** May 26, 1953. Default decree of condemnation and destruction.

**20841. Adulteration of dressed poultry. U. S. v. 325 Pounds \* \* \*. (F. D. C. No. 35226. Sample No. 73239-L.)**

**LIBEL FILED:** May 5, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 29, 1953, by Wilson & Co., Inc., from Wilmington, Del.

**PRODUCT:** 325 pounds of dressed poultry in 5 crates at Chester, Pa.

**LABEL, IN PART:** "Distributed by Paramount Poultry Sales Company Harbeson, Delaware."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** June 18, 1953. Default decree of condemnation and destruction.

**20842. Adulteration of dressed poultry. U. S. v. 226 Pounds \* \* \*. (F. D. C. No. 35376. Sample No. 50537-L.)**

**LIBEL FILED:** August 11, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 25, 1953, by Holly Farms Poultry Co., Inc., from Wilkesboro, N. C.

**PRODUCT:** 226 pounds of dressed poultry in 4 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** August 28, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

**20843. Adulteration of eviscerated poultry. U. S. v. 291 Pounds \* \* \*. (F. D. C. No. 35214. Sample No. 57375-L.)**

**LIBEL FILED:** April 28, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about April 16, 1953, from Federalsburg, Md., by Caroline Poultry Farms, Inc.

**PRODUCT:** 291 pounds of eviscerated poultry in 6 crates at Washington, D. C.

**LABEL, IN PART:** "Caroline Eviscerated \* \* \* Poultry."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with crop material, dirt, and miscellaneous debris.

**DISPOSITION:** May 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park for its use and not for sale.

**20844. Adulteration of canned boned turkey and gravy. U. S. v. 26 Cans \* \* \*. (F. D. C. No. 35449. Sample No. 64859-L.)**

**LIBEL FILED:** August 1, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about May 5, 1953, by Browning Foods, from Lawrence, Ind.

**PRODUCT:** 26 1-pound, 14-ounce cans, of boned turkey and gravy at Minneapolis, Minn.

**LABEL, IN PART:** "Minut Bun Brand Boned Turkey and Gravy."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 21, 1953. Default decree of destruction.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20845. Adulteration and misbranding of black pepper and white pepper. U. S. v. 8 Drums \* \* \* (and 9 other seizure actions). (F. D. C. Nos. 35013, 35057 to 35059, incl., 35063, 35071, 35247, 35248, 35264, 35278. Sample Nos. 57066-L, 57069-L, 57070-L, 57851-L, 58117-L, 58794-L, 58795-L, 62486-L, 70972-L, 73198-L.)**

**LIBELS FILED:** Between April 29 and June 3, 1953, Northern District of Ohio, Eastern District of Michigan, Eastern District of Missouri, Southern District of Indiana, Northern District of Illinois, District of Maryland, and Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of March 25 and April 17, 1953, by the Milwaukee Spice Mills, from Milwaukee, Wis.

**PRODUCT:** Black pepper. 10 200-pound drums, 1 100-pound drum, and 6 250-pound drums at Cleveland, Ohio; Detroit, Mich.; Chicago, Ill.; and Philadelphia, Pa.

White pepper. 6 200-pound drums, 1 125-pound drum, and 4 250-pound drums at St. Louis, Mo.; Cleveland, Ohio; Indianapolis, Ind.; Chicago, Ill.; and Baltimore, Md.



**NATURE OF CHARGE:** Black pepper. Adulteration, Section 402 (b) (2), a mixture of ground soybeans and black pepper in 2 lots, a mixture of black pepper, cottonseed hulls, wheat flour, and ground soybeans in 1 lot, and a mixture of ground black pepper, corn flour, soybean flour, and cottonseed hulls in 1 lot had been substituted in whole or in part for black pepper; and, Section 402 (b) (1), a valuable constituent, pepper, had been in part omitted from 1 lot. Misbranding, Section 403 (a), the label statements "Pepper—Black Ground \* \* \* Freshly Ground Black Pepper" were false and misleading.

White pepper. Adulteration, Section 402 (b) (2), wheat had been substituted in part for white pepper in 5 lots, and a mixture of ground white pepper and corn flour had been substituted in whole or in part for white pepper in 1 lot. Further adulteration, Section 402 (b) (1), a valuable constituent, pepper, had been in part omitted from 1 lot; and, Section 402 (b) (4), in 5 lots wheat had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality. Misbranding, Section 403 (a), the label statements "Freshly Ground Montok White Pepper—Pepper—White Ground" were false and misleading.

**DISPOSITION:** August 21, 1953. The libel actions having been consolidated for trial in the Northern District of Illinois and the Milwaukee Spice Mills, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for the purpose of converting them into oleoresins of pepper under the supervision of the Department of Health, Education, and Welfare.

**20846. Adulteration of chili peppers. U. S. v. 10 Bags \* \* \*. (F. D. C. No. 35080. Sample No. 74052-L.)**

**LIBEL FILED:** June 18, 1953, Southern District of California.

**ALLEGED SHIPMENT:** On or about April 1, 1953, from New York, N. Y.

**PRODUCT:** 10 85-pound bags of chili peppers at Santa Ana, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested chili peppers, and of a decomposed substance by reason of the presence of moldy chili peppers. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 27, 1953. Default decree of condemnation and destruction.

**20847. Adulteration of salad dressing. U. S. v. 925 Jars \* \* \*. (F. D. C. No. 35222. Sample Nos. 57558-L, 57559-L.)**

**LIBEL FILED:** May 1, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about January 8 and February 20, 1953, from New York, N. Y.

**PRODUCT:** 925 jars of salad dressing at Washington, D. C. Examination showed that the product had undergone decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 18, 1953. Default decree of condemnation and destruction.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

20848. Adulteration and misbranding of a vitamin preparation. U. S. v. 95 Bottles \* \* \*. (F. D. C. No. 35065. Sample Nos. 70737-L to 70740-L, incl.)

**LIBEL FILED:** May 29, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about June 6, 19, and 26, and July 31, 1951, from Los Angeles, Calif.

**PRODUCT:** 55 8-ounce bottles, 35 16-ounce bottles, and 5 32-ounce bottles of a vitamin preparation at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin A and vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "3 teaspoonsful contains: Vitamin A \* \* \* 4000 U. S. P. Units \* \* \* Vitamin D \* \* \* 400 U. S. P. Units" was false and misleading as applied to the article, which contained less than those amounts of vitamin A and vitamin D.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 26, 1953. Default decree of condemnation and destruction.

20849. Adulteration and misbranding of Benelixir. U. S. v. 364 Bottles \* \* \*. (F. D. C. No. 35053. Sample No. 47388-L.)

**LIBEL FILED:** May 19, 1953, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about December 14, 1951, from Detroit, Mich.

**PRODUCT:** 364 8-ounce bottles of Benelixir at Houston, Tex. Analysis showed that the product contained 63 percent of the declared amount of vitamin A.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin A, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each 6 cc. \* \* \* Contains: Vitamin A 4500 U. S. P. Units" was false and misleading as applied to the article, which contained less than 4500 U. S. P. units of vitamin A per 6 cc.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 31, 1953. Default decree of condemnation and destruction.

20850. Misbranding of Special Formula capsules (Vital Veeda capsules). U. S. v. 3 Drums, etc. (F. D. C. No. 31595. Sample No. 24461-L.)

**LIBEL FILED:** August 6, 1951, District of New Jersey.

**ALLEGED SHIPMENT:** On or about May 3, 1951, by the Park Drug Co., from New York, N. Y.

**PRODUCT:** 3 drums of Special Formula capsules, each drum originally containing 22,000 capsules, and 30 100-capsule bottles of capsules which had been repackaged from the contents of the drums by the consignee and relabeled under the name of Vital Veeda capsules. The product was located at Paterson, N. J., in the possession of the Vital Food Service.



**LABEL, IN PART:** (Bottle) "Vital Veeda for Organic Iodine and Natural Mineral and Vitamins Contains Sea and Land Sundried Vegetables, Sea Dulse, Kelp, Alfalfa, Watercress and Parsley."

**NATURE OF CHARGE:** Misbranding, Section 403 (i) (2), the article in the drums was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and, Section 403 (j), the article in the drums purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the proportions of the minimum daily requirements for such vitamins and minerals supplied by the article when consumed in a specified quantity during the period of one day and a statement of the ingredients of food for infants. The article in the drums was misbranded in these respects when introduced into and while in interstate commerce.

Further misbranding, Section 403 (a), the statement on the bottle label of the article "Vital Veeda for Organic Iodine and Natural Mineral and Vitamins," together with the declaration of vitamins and minerals, was false and misleading. This statement represented and suggested that the article in the bottles would provide, when consumed as directed, nutritionally significant quantities of the vitamins and minerals declared (with the exception of iodine), whereas the article would provide, when consumed as directed, only an insignificant amount of such vitamins and minerals (except iodine). The article in the bottles was misbranded in this respect while held for sale after shipment in interstate commerce.

The libel alleged also that a quantity of shark liver oil capsules were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4218.

**DISPOSITION:** Felicia P. Kornreich, trading as Vital Food Service, appeared as claimant and filed an answer on September 28, 1951. On October 18, 1951, the Government filed a motion to strike six separate defenses contained in the answer because some of the alleged defenses were insufficient in law and others were immaterial. The motion was denied by the court on November 26, 1951, with leave to renew the motion at the trial.

On or about March 3, 1952, the claimant filed a motion to dismiss the libel, to vacate the warrant of seizure and monition, and to restore to the claimant the goods seized "on the ground that this court has not acquired jurisdiction over the res." After consideration of the arguments and briefs of counsel, the court, on June 17, 1952, ordered that this motion be dismissed.

On September 21, 1953, the claimant having withdrawn her answer, and without admitting or denying the allegations of the libel, having consented to the entry of a decree, judgment of condemnation was entered. The court ordered that the products be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

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Milwaukee Spice Mills :	canned black-eyed peas----- 20825
black pepper and white pepper- 20845	Sunshine Food Markets :
New Hampshire Poultry Co. :	flour ----- 20803
dressed poultry----- 20840	Vital Food Service :
Oppen's, Inc. :	Special Formula capsules and
flour ----- 20804	Vital Veeda capsules----- 20850
Paramount Poultry Sales Co. :	Wilson & Co., Inc. :
dressed poultry----- 20841	dressed poultry----- 20841
Park Drug Co. :	Wilton Storage Co. :
Special Formula capsules and	rice ----- 20808
Vital Veeda capsules----- 20850	

# THE

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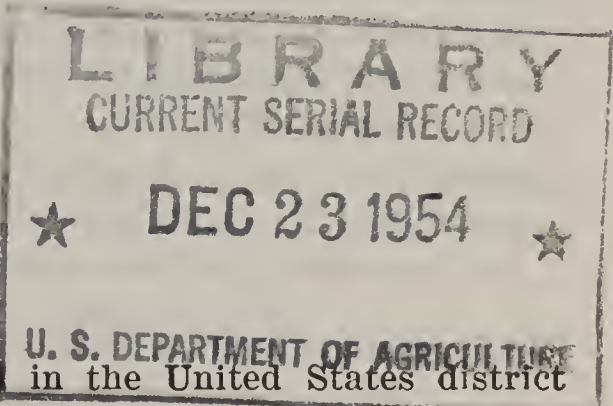
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20851-20900

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *December 1, 1954.*

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## CANDY

**20851. Adulteration of candy. U. S. v. Akron Candy Co. and Leonard Kirtz.**  
Pleas of nolo contendere. Fine of \$100, plus costs, against each defendant; fine and costs against individual defendant suspended.  
(F. D. C. No. 35118. Samples Nos. 7987-L, 41728-L, 54370-L.)

**INFORMATION FILED:** On or about July 28, 1953, Northern District of Ohio, against the Akron Candy Co., a corporation, Bellevue, Ohio, and Leonard Kirtz, vice president and general manager of the corporation.

**ALLEGED SHIPMENT:** Between the approximate dates of November 17 and 21, 1952, from the State of Ohio into the States of Pennsylvania and Indiana.

**LABEL, IN PART:** "Lady Margaret \* \* \* Caramel Nut Fudge Roll" and "It's Dum Dum Bulk Fudge."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect parts, mites, a fly, and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** September 23, 1953. The defendants having entered pleas of nolo contendere, the court imposed a fine of \$100, plus costs, against each defendant, but suspended the fine and costs imposed against the individual defendant.

**20852. Adulteration of candy. U. S. v. 11 Cases, etc. (F. D. C. No. 35699.**  
Sample Nos. 53272-L to 53279-L, incl.)

**LIBEL FILED:** October 8, 1953, Western District of Arkansas.

**ALLEGED SHIPMENT:** Between January 1 and September 22, 1953, from Muskogee, Okla.

**PRODUCT:** 11 cases, each containing 12 16-ounce packages, of peanut squares; 11 cases, each containing 12 12-ounce packages, of coconut haystacks; 5 cases, each containing 6 5-pound boxes, of coconut bonbons; 4 cases, each containing 6 5-pound boxes, and 26 cases, each containing 12 14-ounce boxes, of coconut squares; 50 cases, each containing 12 16-ounce boxes, of orange slices; 33 cases, each containing 12 16-ounce boxes, of assorted creams; and 14 15-pound cases of gum drops, at Fort Smith, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 19, 1953. Default decree of condemnation and destruction.

**20853. Adulteration of candy bars and flour. U. S. v. 59 Cartons, etc. (F. D. C. No. 35517. Sample Nos. 34550-L, 53108-L to 53110-L, incl.)**

**LIBEL FILED:** September 29, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** Between May and August, 1953, from Memphis, Tenn., and Greenville, Tex.

**PRODUCT:** 59 cartons of peanut candy bars and 52 cartons of chocolate candy bars, each carton containing 24 bars, and 27 50-pound bags of flour at Batesville, Ark.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect infestation. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 29, 1953. Default decree of condemnation. The court ordered that the products be delivered to a State institution, for use as animal feed.

**20854. Adulteration of marshmallows. U. S. v. 7 Cartons \* \* \*. (F. D. C. No. 35640. Sample No. 72358-L.)**

**LIBEL FILED:** September 18, 1953, Northern District of West Virginia.

**ALLEGED SHIPMENT:** On or about December 3, 1951, from Chicago, Ill.

**PRODUCT:** 7 cartons, each containing 24 10-ounce packages, of marshmallows at Terra Alta, W. Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of sawtooth grain beetle contamination. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 29, 1953. Default decree of condemnation and destruction.

## CEREALS AND CEREAL PRODUCTS

### BAKERY PRODUCTS

**20855. Adulteration of bread and buns. U. S. v. New System Baking Corp. and Herbert Fleming. Pleas of guilty. Fine of \$600 against each defendant. (F. D. C. No. 35162. Sample Nos. 70675-L to 70677-L, incl.)**

**INFORMATION FILED:** On or about September 1, 1953, Southern District of Ohio against the New System Baking Corp., Marietta, Ohio, and Herbert Fleming, vice president and manager of the Marietta plant of the corporation.

**ALLEGED SHIPMENT:** On or about May 22, 1953, from the State of Ohio into the State of West Virginia.

**LABEL, IN PART:** "New System Fine Tex Enriched Bread \* \* \* New Systems Bakeries Marietta, Ohio" and "Nu-Loaf Enriched Bread New System Bakery Marietta, Ohio."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect fragments, rodent hairs, and rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** September 10, 1953. The defendants having entered pleas of guilty, the court fined each defendant \$600.

### FLOUR \*

**20856. Adulteration of flour. U. S. v. 9 Cases, etc. (F. D. C. No. 35675. Sample Nos. 62812-L to 62818-L, incl., 62820-L to 62823-L incl.)**

**LIBEL FILED:** October 8, 1953, Eastern District of Arkansas.

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\*See also No. 20853.

**ALLEGED SHIPMENT:** On or about July 9, August 18 and 27, and September 5, 1953, from Fremont, Nebr., El Reno, Okla., and Wichita Falls, Tex.

**PRODUCT:** 9 cases, each containing 12 2-pound bags, 69 cases, each containing 10 5-pound bags, 25 cases, each containing 5 10-pound bags, 767 10-pound bags, 145 50-pound bags, and 114 25-pound bags of flour at Pine Bluff, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 9, 1953. The Ritchie Grocery Co., Pine Bluff, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Department of Health, Education, and Welfare.

**20857. Adulteration of flour. U. S. v. 105 Bags, etc. (F. D. C. No. 35531. Sample Nos. 62196-L to 62198-L, incl.)**

**LIBEL FILED:** October 8, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about May 1 and 16, June 24, and July 24, 1953, from Hutchinson, Kans.

**PRODUCT:** 105 50-pound bags and 98 25-pound bags of flour at Morrilton, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 12, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**20858. Adulteration of flour. U. S. v. 40 Bags, etc. (F. D. C. No. 35658. Sample Nos. 59768-L, 59769-L.)**

**LIBEL FILED:** September 26, 1953, Western District of South Carolina.

**ALLEGED SHIPMENT:** On or about July 2 and 6, 1953, from Statesville, N. C.

**PRODUCT:** 40 25-pound bags and 12 100-pound bags of flour at Greenville, S. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 6, 1953. The Statesville Flour Mills, Statesville, N. C., having admitted that the product was adulterated as alleged in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing for use as hog feed.

**20859. Adulteration of flour. U. S. v. 33 Bags \* \* \*. (F. D. C. No. 35700. Sample No. 59775-L.)**

**LIBEL FILED:** October 8, 1953, Middle District of North Carolina.

**ALLEGED SHIPMENT:** On or about August 9, 1952, from Chattanooga, Tenn.

**PRODUCT:** 33 50-pound bags of flour at Winston-Salem, N. C.



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 1, 1953. Default decree of condemnation. The court ordered that the product be denatured and delivered to a charitable institution, for use as animal feed.

**20860. Adulteration of flour. U. S. v. 27 Bags \* \* \*. (F. D. C. No. 35659. Sample No. 59547-L.)**

**LIBEL FILED:** September 24, 1953, Northern District of Georgia.

**ALLEGED SHIPMENT:** On or about July 30 and August 20, 1953, from Wilson, Kans.

**PRODUCT:** 27 50-pound bags of flour at Bowdon, Ga.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 2, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

**20861. Adulteration of unpopped popcorn. U. S. v. 22 Bags, etc. (F. D. C. No. 35500. Sample No. 55944-L.)**

**LIBEL FILED:** September 21, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about January 2, 1953, from Atchison, Kans.

**PRODUCT:** 22 100-pound bags, 25 25-pound bags, and 22 50-pound bags of unpopped popcorn at Elmira, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 2, 1953. Default decree of condemnation and destruction.

**20862. Adulteration of wheat. U. S. v. 122,400 Pounds, etc. (F. D. C. No. 35994. Sample Nos. 61763-L, 61764-L.)**

**LIBEL FILED:** November 25, 1953, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about November 18, 1953, by the Gale Grain & Feed Co., from McCook, Nebr.

**PRODUCT:** 243,000 pounds of wheat in 2 railroad cars at North Kansas City, Mo. Examination showed that the ends of the cars were plugged with musty wheat.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of musty wheat.

**DISPOSITION:** November 25, 1953. Earl G. Gale, McCook, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product subsequently was denatured for use as animal feed.

**20863. Adulteration of doughnut mix. U. S. v. 29 Bags \* \* \*. (F. D. C. No. 35705. Sample No. 59776-L.)**

**LIBEL FILED:** October 8, 1953, Middle District of North Carolina.

**ALLEGED SHIPMENT:** On or about March 26, 1953, from Springfield, Ill.

**PRODUCT:** 29 100-pound bags of doughnut mix at Winston-Salem, N. C.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 1, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, conditioned that it be denatured and used for animal feed.

## DAIRY PRODUCTS

### BUTTER

**20864. Adulteration of whipped butter. U. S. v. Aiello Dairy Farms Co. Plea of guilty. Fine, \$150. (F. D. C. No. 35138. Sample Nos. 51651-L, 51657-L, 51691-L.)**

**INFORMATION FILED:** October 22, 1953, Eastern District of New York, against the Aiello Dairy Farms Co., a partnership, Brooklyn, N. Y.

**ALLEGED SHIPMENT:** On or about March 5 and 25 and April 22, 1953, from the State of New York into the State of New Jersey.

**LABEL, IN PART:** "Aiello Dairy Farms Co. Brand Whipped Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

**DISPOSITION:** December 14, 1953. The defendant having entered a plea of guilty, the court fined it \$150.

**20865. Adulteration of butter. U. S. v. 150 Cases, etc. (F. D. C. No. 35553. Sample Nos. 59166-L, 59167-L.)**

**LIBEL FILED:** On or about August 11, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 14, 1953, by the Sugar Creek Creamery Co., from Louisville, Ky.

**PRODUCT:** Butter. 150 cases, each containing 32 pounds, 16 cases, each containing 32 1-pound cartons, and 30 cases, each containing 12 pounds, at Miami, Fla.

**LABEL, IN PART:** "Country Roll Creamery Butter Pasteurized Distributors Wilson & Co. General offices Chicago, Ill." and "Lake View Creamery Butter Distributed by Wilson & Co. General Offices Chicago, Ill."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of its having been made from decomposed cream.

**DISPOSITION:** November 10, 1953. The Sugar Creek Creamery Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Department of Health, Education, and Welfare.

### CHEESE

**20866. Adulteration of cheddar cheese. U. S. v. Melvin Juenger (Juenger Cheese Factory). Plea of guilty. Fine of \$250, plus costs. (F. D. C. No. 35201. Sample Nos. 62436-L, 62931-L, 62939-L.)**

**INFORMATION FILED:** November 2, 1953, Eastern District of Illinois, against Melvin Juenger, trading as the Juenger Cheese Factory, Marissa, Ill.

**ALLEGED VIOLATION:** On or about June 1, 1949, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce a guaranty to the effect that all cheese shipped and delivered by the defendant to the holder of the guaranty would not be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about July 17, 1953, the defendant shipped and delivered to the holder of the guaranty, at Shelbyville, Ill., a quantity of cheddar cheese which was adulterated.

The defendant shipped also, on or about May 8, 1953, from Marissa, Ill., to St. Louis, Mo., a quantity of adulterated cheddar cheese.

**LABEL, IN PART:** "Whole Milk Cheddar Cheese Factory No. 13 Ill. Marissa Dairy Prod. Co. Marissa Illinois Made From Pasteurized Milk."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of manure, insects, insect fragments, rodent hairs, cow hairs, and feather fragments, and by reason of the use of filth-contaminated milk in the preparation of the article; and, Section 402 (a) (4), the article had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** November 30, 1953. The defendant having entered a plea of guilty, the court fined him \$250, plus costs.

**20867. Misbranding of muenster cheese. U. S. v. 135 Boxes \* \* \*. (F. D. C. No. 35239. Sample Nos. 51695-L, 51696-L, 51698-L to 51701-L, incl.)**

**LIBEL FILED:** May 19, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 20 and April 10, 1953, by the Pauly Cheese Co., from Green Bay, Wis.

**PRODUCT:** 135 boxes, each containing 6 6-pound loaves, of muenster cheese at New York, N. Y.

**LABEL, IN PART:** (Loaf) "Made In Wisconsin Pauly Muenster Cheese Made From Pasteurized Whole Milk."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Made From Pasteurized \* \* \* Milk" was false and misleading as applied to the article, which was made from milk which had not been pasteurized.

Further misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for muenster cheese since it was made from milk which had not been pasteurized.

**DISPOSITION:** June 23, 1953. Swift & Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of reprocessing it, under the supervision of the Department of Health, Education, and Welfare, for use in the manufacture of pasteurized processed cheese which would comply with all requirements of the law.

## FEEDS AND GRAINS

**20868. Adulteration and misbranding of alfalfa meal. U. S. v. Arthur Stout.**  
**Plea of guilty. Fine \$200.** (F. D. C. No. 35111. Sample No. 418-L.)

**INFORMATION FILED:** July 21, 1953, Western District of Oklahoma, against Arthur Stout, Frederick, Okla.

**ALLEGED SHIPMENT:** On or about January 22, 1953, from the State of Oklahoma into the State of Texas.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), an article containing a mixture of alfalfa meal, Johnson grass, and other weed plants had been substituted for alfalfa meal.

Misbranding, Section 403 (b), the article was a mixture of alfalfa meal, Johnson grass, and other weed plants, and it was offered for sale under the name of another food, namely, alfalfa meal; Section 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the article failed to bear a label containing the common or usual name of the article; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

**DISPOSITION:** August 24, 1953. The defendant having entered a plea of guilty, the court fined him \$200.

**20869. Adulteration and misbranding of cottonseed meal. U. S. v. 194 Bags**  
**\* \* \*. (F. D. C. No. 35090. Sample No. 165-L.)**

**LIBEL FILED:** June 25, 1953, Western District of Kentucky.

**ALLEGED SHIPMENT:** On or about May 18, 1953, by the Nashville Cotton Oil Mill Corp., from Nashville, Tenn.

**PRODUCT:** 194 100-pound bags of cottonseed meal at Cadiz, Ky.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "41% Protein \* \* \* Guaranteed Analysis Protein, Not Less Than . . . . 41.00 Per Cent" was false and misleading as applied to the article, which contained less than the stated amount of protein.

**DISPOSITION:** August 21, 1953. Default decree of condemnation. The court ordered that the product, consisting of 10 100-pound bags which actually had been seized, be destroyed.



## FISH AND SHELLFISH

**20870. Adulteration of frozen yellow pike. U. S. v. 738 Pounds \* \* \*.**  
(F. D. C. No. 35282. Sample No. 50099-L.)

**LIBEL FILED:** June 2, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about September 18, 1952, from New York, N. Y.

**PRODUCT:** 738 pounds of frozen yellow pike in 13 boxes at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 6, 1953. Default decree of condemnation and destruction.

**20871. Adulteration of frozen red snappers. U. S. v. 678 Pounds \* \* \*.**  
(F. D. C. No. 35624. Sample No. 50126-L.)

**LIBEL FILED:** September 9, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 6, 1953, by Chesebro, Robbins & Graham, Inc., from New York, N. Y.

**PRODUCT:** 678 pounds of frozen red snappers in 6 boxes at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** October 7, 1953. Default decree of condemnation and destruction.

**20872. Adulteration of shucked clams. U. S. v. 6 Cans \* \* \*. (F. D. C. No. 35652. Sample Nos. 45380-L, 45381-L.)**

**LIBEL FILED:** September 25, 1953, District of Connecticut.

**ALLEGED SHIPMENT:** On or about August 26, 1953, by the Ipswich Shellfish Co., from Ipswich, Mass.

**PRODUCT:** 6 1-gallon cans of shucked clams at New Britain, Conn.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2) water had been substituted in part for shucked clams; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** November 19, 1953. Default decree of condemnation and destruction.

**20873. Adulteration of crabmeat. U. S. v. 215 Cans, etc. (F. D. C. No. 35547. Sample No. 2588-L.)**

**LIBEL FILED:** August 20, 1953, District of Columbia.

**ALLEGED SHIPMENT:** On or about August 15, 1953, by Skipper Sea Foods, from Jacksonville, Fla.

**PRODUCT:** 311 1-pound cans of crabmeat at Washington, D. C. Examination disclosed that the product was contaminated with *E. coli* of fecal origin.

**LABEL, IN PART:** "Skipper Sea Foods Fla. 15C Deluxe [or "Cocktail Lump" or "Claw"] Crabmeat Yulee, Fla."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance.

DISPOSITION: October 22, 1953. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park for its use and not for sale.

20874. Adulteration of canned shrimp. U. S. v. 98 Cases \* \* \*. (F. D. C. No. 35421. Sample No. 47649-L.)

LIBEL FILED: September 9, 1953, District of Puerto Rico.

ALLEGED SHIPMENT: On or about August 26, 1953, by the American Sun Dried Shrimp Co., from Houma, La.

PRODUCT: 98 cases, each containing 24 cans, of shrimp at San Juan, P. R.

LABEL, IN PART: (Can) "Helen Ann Brand Wet Pack Small Shrimp Drained Weight 5 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp, and it was otherwise unfit for food by reason of the presence of badly discolored shrimp.

DISPOSITION: October 20, 1953. Default decree of condemnation and destruction.

20875. Adulteration of canned shrimp. U. S. v. 69 Cases \* \* \*. (F. D. C. No. 35470. Sample No. 67904-L.)

LIBEL FILED: September 14, 1953, Northern District of Texas.

ALLEGED SHIPMENT: On or about July 14 and August 3, 1953, by the Deepsouth Packing Co., from New Orleans, La.

PRODUCT: 69 cases, each containing 24 cans, of shrimp at Dallas, Tex.

LABEL, IN PART: (Can) "Shady River Brand Wet Pack Small Shrimp Drained Weight 5 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: October 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution. Thereafter, the product was segregated by the United States marshal and inspectors of the Food and Drug Administration, and, as a result, 19 cases of the product were found fit for human consumption and 37 cases were found unfit. The 19 cases which were found good were stored at an institution for subsequent consumption by the inmates, and the remainder of the product was fed to hogs.

20876. Adulteration of frozen breaded shrimp. U. S. v. 20 Cartons \* \* \*. (F. D. C. No. 35636. Sample No. 50129-L.)

LIBEL FILED: September 21, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about June 9, 1953, from St. Simons Island, Ga.

PRODUCT: 20 cartons, each containing 12 2-pound packages, of frozen breaded shrimp at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of



decomposed shrimp. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 9, 1953. Default decree of condemnation and destruction.

20877. Misbranding of frozen breaded shrimp. U. S. v. 49 Cases \* \* \*.  
(F. D. C. No. 35487. Sample No. 58882-L.)

LIBEL FILED: September 15, 1953, Western District of Michigan.

ALLEGED SHIPMENT: On or about May 22, 1953, by Brunswick Enterprises, Inc., or Jekyll Island Packing Co., Inc., from Brunswick, Ga.

PRODUCT: 49 cases, each containing 12 cartons, of frozen breaded shrimp at Grand Rapids, Mich.

LABEL, IN PART: (Carton) "Net Weight 10 Oz. Jekyll Island Brand Fresh Frozen Breaded Fantail Shrimp Jekyll Island Packing Co. Inc., Brunswick, Georgia Packing & Freezing Supervised by U. S. Food & Drug Administration."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Packing & Freezing Supervised by U. S. Food & Drug Administration" was false and misleading as applied to an article which had not been subject to such supervision.

DISPOSITION: October 16, 1953. Frank Phillips, Grand Rapids, Mich., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## FRUITS AND VEGETABLES

### CANNED FRUIT

20878. Misbranding of canned peaches. U. S. v. 24 Cases \* \* \*. (F. D. C. No. 35221. Sample No. 27488-L.)

LIBEL FILED: April 30, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 8, 1953, by the Fair View Packing Co., from Hollister, Calif.

PRODUCT: 24 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Boston, Mass.

LABEL, IN PART: (Can) "Sliced Yellow Cling Peaches In Heavy Syrup Castle Garden."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peaches since all peach units of the article did not meet the test for tenderness as prescribed by the standard and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: August 6, 1953. The M. D. Kremgold Co., Boston, Mass., and the Fair View Packing Co. having filed a joint answer and later consented to the entry of a default decree, judgment of condemnation was entered and the court ordered that the product be delivered to a charitable institution for its use and not for sale.

**20879. Misbranding of canned pineapple. U. S. v. 139 Cases \* \* \*. (F. D. C. No. 35245. Sample No. 69307-L.)**

**LIBEL FILED:** May 15, 1953, Western District of Texas.

**ALLEGED SHIPMENT:** The product originally was shipped from Mexico to Los Angeles, Calif., from where it was shipped to the Valley Canning Co. at Canutillo, Tex., on or about April 7, 1953, after which it was transported to the James A. Dick Co. at El Paso, Tex.

**PRODUCT:** 139 cases, each containing 24 1-pound, 4-ounce cans, of pineapple at El Paso, Tex.

**RESULTS OF INVESTIGATION:** When the product originally was shipped from Mexico, the cans were labeled, in part, "Product of Mexico." However, upon instructions from James A. Dick Co., the Valley Canning Co. stripped the cans of their original label and applied the label set forth below:

**LABEL, IN PART:** (Can) "Avondale Brand \* \* \* 10 Slices Sliced Pineapple Packed In Extra Heavy Syrup \* \* \* Packed in U. S. A."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Packed in U. S. A." was false and misleading as applied to the article, which was packed in Mexico. The article was misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** June 11, 1953. Safeway Stores, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

### DRIED FRUIT

**20880. Adulteration of raisins. U. S. v. 106 Cases, etc. (F. D. C. No. 35532. Sample Nos. 56134-L, 56135-L.)**

**LIBEL FILED:** October 5, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about June 2, 1953, from Del Rey, Calif.

**PRODUCT:** 151 30-pound cases of raisins at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 18, 1953. Default decree of condemnation and destruction.

**20881. Adulteration of raisins. U. S. v. 17 Boxes \* \* \*. (F. D. C. No. 35504. Sample No. 56128-L.)**

**LIBEL FILED:** September 22, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about October 31, 1952, from San Jose, Calif.

**PRODUCT:** 17 30-pound boxes of raisins at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 21, 1953. Default decree of condemnation and destruction.



## VEGETABLES

**20882. Adulteration of dried beans. U. S. v. 14 Bags \* \* \* (and 2 other seizure actions).** (F. D. C. No. 35625. Sample Nos. 64512-L, 64649-L, 64650-L.)

**LIBELS FILED:** October 2, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about November 21, 1952, and February 4 and March 4 and 30, 1953, from San Francisco, Calif., and New York, N. Y.

**PRODUCT:** 46 100-pound bags and 29 110-pound bags of dried beans at Seattle, Wash., in the possession of Angelo Merlino & Sons.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 30, 1953. Angelo Merlino & Sons, claimant, having consented to the entry of a decree and the libel actions having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Department of Health, Education, and Welfare. On April 26, 1954, an amended decree was entered providing for use other than for human consumption. Pursuant to this decree, the product was denatured for use as hog feed.

**20883. Adulteration and misbranding of canned lima beans. U. S. v. 249 Cases \* \* \*. (F. D. C. No. 35242. Sample No. 73334-L.)**

**LIBEL FILED:** May 14, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 17, 1953, by The Brakeleys, Inc., from Milford, Del.

**PRODUCT:** 249 cases, each containing 6 unlabeled No. 10 cans, of lima beans at Philadelphia, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the article purported to be and was represented as canned lima beans, a food for which a definition and standard of identity has been prescribed by regulations, and the label of the article failed to bear, as required by such definition and standard, the name of the food specified in the definition and standard.

**DISPOSITION:** June 22, 1953. Default decree of condemnation and destruction.

**20884. Misbranding of canned lima beans. U. S. v. 64 Cases \* \* \*. (F. D. C. No. 35211. Sample No. 73070-L.)**

**LIBEL FILED:** May 8, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about December 4, 1952, by Harry Strauss, from Frederica, Del.

PRODUCT: 64 cases, each containing 24 1-pound, 4-ounce cans, of lima beans at Philadelphia, Pa. Examination showed that the product consisted of large, badly bleached lima beans containing a large proportion of broken beans.

LABEL, IN PART: (Can) "Packed By Draper Brothers Frederica, Del. Blue Hen \* \* \* Small Green Lima Beans."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Small Green Lima Beans" and the label vignette depicting a dish of small size, green, whole lima beans were false and misleading as applied to a product which consisted of large size, badly bleached lima beans containing a large proportion of broken beans.

DISPOSITION: September 16, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

**20885. Misbranding of frozen lima beans. U. S. v. 625 Cases \* \* \*. (F. D. C. No. 35246. Sample No. 59095-L.)**

LIBEL FILED: May 13, 1953, Northern District of Georgia.

ALLEGED SHIPMENT: On or about April 3, 1953, by the Michigan Frosted Foods Co., from Bay City, Mich.

PRODUCT: 625 cases, each containing 24 10-ounce cartons, of frozen lima beans at Atlanta, Ga. Examination showed that the product was frozen, dry, soaked lima beans of medium size and non-uniform in color.

LABEL, IN PART: (Carton) "Thrif-T-Pak \* \* \* frozen fresh \* \* \* Baby Lima Beans."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "frozen fresh \* \* \* Baby Lima Beans" and the vignette on the label depicting baby lima beans of uniform green color were false and misleading as applied to a product which was frozen, dry, soaked lima beans of medium size and not uniform in color.

DISPOSITION: August 31, 1953. Thrif-T-Pak, Sweet Frost Co., Inc., Atlanta, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Food and Drug Administration.

**20886. Adulteration of canned black-eyed peas. U. S. v. 133 Cases \* \* \*. (F. D. C. No. 35402. Sample No. 38963-L.)**

LIBEL FILED: On or about August 24, 1953, Western District of Virginia.

ALLEGED SHIPMENT: On or about July 11, 1953, by the Steele Canning Co., from Springdale, Ark.

PRODUCT: 133 cases, each containing 24 1-pound cans, of black-eyed peas at Lynchburg, Va.

LABEL, IN PART: (Can) "Little Mill Brand Contents 1 Pound Fresh Green Shelled Blackeyed Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the article contained a deleterious substance, pieces of glass, which may have rendered the article injurious to health.

DISPOSITION: November 24, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use other than for human consumption.



**NUTS AND NUT PRODUCTS**

**20887. Adulteration of unshelled pistachio nuts. U. S. v. 13 Bags, etc. (F. D. C. No. 35651. Sample No. 50693-L.)**

**LIBEL FILED:** September 22, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 19, 1952, from Italy.

**PRODUCT:** 13 100-pound bags and 5 25-pound cartons of unshelled pistachio nuts at Corona, L. I., N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed pistachio nuts, and of a filthy substance by reason of the presence of wormy pistachio nuts; and it was otherwise unfit for food by reason of the presence of empty shells. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 7, 1953. Default decree of condemnation and destruction.

**20888. Adulteration of walnut meats. U. S. v. 47 Cartons \* \* \*. (F. D. C. No. 35482. Sample No. 79092-L.)**

**LIBEL FILED:** September 15, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 18, June 24, and July 8, 1953, from San Antonio, Tex.

**PRODUCT:** 47 25-pound cartons of walnut meats at Cuyahoga Falls, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 5, 1953. The Handy Baking Co., Cuyahoga Falls, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Food and Drug Administration. As a result of the reconditioning operations, 187 pounds of the product were found unfit and were destroyed.

**20889. Adulteration of peanut butter. U. S. v. 9 Cases, etc. (F. D. C. No. 35284. Sample Nos. 70495-L, 70496-L.)**

**LIBEL FILED:** May 28, 1953, Eastern District of Kentucky.

**ALLEGED SHIPMENT:** On or about April 23, 1953, by the Fletcher-Wilson Coffee Co., from Nashville, Tenn.

**PRODUCT:** 9 cases, each containing 12 20-ounce jars, and 10 cases, each containing 24 9½-ounce jars, of peanut butter at Ravenna, Ky.

**LABEL, IN PART:** (Jar) "Luxury \* \* \* Peanut Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 3, 1953. Default decree of condemnation and destruction.

## POULTRY

**20890. Adulteration of dressed turkeys. U. S. v. Fox DeLuxe Foods, Inc., and Raymond H. Matson. Pleas of guilty. Fine of \$100 against corporation and \$25 against individual. (F. D. C. No. 35141. Sample Nos. 54188-L, 54189-L.)**

**INFORMATION FILED:** September 29, 1953, Western District of Wisconsin, against Fox DeLuxe Foods, Inc., Barron, Wis., and Raymond H. Matson, plant manager.

**ALLEGED SHIPMENT:** Between the approximate dates of October 18 and 30, 1952, from the State of Wisconsin into the State of Illinois.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of turkeys which were extensively bruised; and, Section 402 (a) (5), the article was in part the product of a diseased animal, namely, diseased turkeys.

**DISPOSITION:** December 4, 1953. The defendants having entered pleas of guilty, the court fined the corporation \$100 and the individual \$25.

**20891. Adulteration of dressed turkeys. U. S. v. 295 Crates, etc. (and 2 other seizure actions). (F. D. C. Nos. 35645, 35646, 35707. Sample Nos. 51917-L to 51919-L, incl., 51928-L.)**

**LIBELS FILED:** September 22 and 28 and October 15, 1953, Southern District of New York and District of New Jersey.

**ALLEGED SHIPMENT:** On or about August 31 and September 3 and 4, 1953, by the Litchfield Produce Co., from Litchfield and Perham, Minn.

**PRODUCT:** 592 crates containing approximately 56,230 pounds, 307 crates containing approximately 28,646 pounds, and 254 crates containing approximately 23,386 pounds of dressed turkeys at Bronx and New York, N. Y., and Jersey City, N. J.

**LABEL, IN PART:** (Crate) "Elpeco Brand [or "Meeker Brand"] Litchfield Produce Co., Litchfield, Minn. Packed by Perham Produce Co., Inc., Perham, Minn."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds. The 307-crate lot was alleged to be adulterated while in interstate commerce, and the 592- and 254-crate lots were alleged to be adulterated when introduced into and while in interstate commerce.

**DISPOSITION:** November 4 and 10, 1953. The Litchfield Produce Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for salvage of the good portion and destruction of the unfit portion, under the supervision of the Department of Health, Education, and Welfare.

As a result of the salvaging operations, 942 birds were found to be in good condition and were released, and 3,756 birds were found decomposed and were denatured for rendering purposes.

**20892. Adulteration of dressed poultry. U. S. v. 212 Pounds \* \* \*. (F. D. C. No. 35665. Sample No. 51923-L.)**

**LIBEL FILED:** September 30, 1953, Southern District of New York.



**ALLEGED SHIPMENT:** On or about September 14, 1953, by the New Hampshire Poultry Co., from Goffstown, N. H.

**PRODUCT:** 212 pounds of dressed poultry in 3 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirty birds, and of a decomposed substance by reason of the presence of decomposed birds; and it was otherwise unfit for food by reason of the presence of extensively bruised birds. Further adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 23, 1953. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

## SPICES, FLAVORS, AND SEASONING MATERIALS

**20893. Adulteration of cumin seed, poppyseed and cinnamon quills. U. S. v. 39 Bags, etc.** (F. D. C. No. 36156. Sample Nos. 57893-L to 57895-L, incl.)

**LIBEL FILED:** On or about November 27, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about July 31, 1951, and April 13 and May 19, 1953, from French Morocco, Argentina, and Ceylon.

**PRODUCT:** 39 100-pound bags of cumin seed, 212 100-pound bags of poppyseed, and 20 100-pound bags of cinnamon quills at Baltimore, Md., in the possession of William G. Scarlett & Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent excreta, rodent urine, rodent hairs, and insects; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 1, 1953. William G. Scarlett & Co. having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the products be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare.

As a result of the segregation operations, 257 pounds of cumin seed and 107 pounds of cinnamon quills were found unfit and were destroyed; 1,908 pounds of poppyseed were found unfit, and, of this amount 1,105 pounds were denatured for use as bird seed and 803 pounds were destroyed.

**20894. Adulteration of jamaica ginger. U. S. v. 14 Bags \* \* \*. (F. D. C. No. 35407 Sample No. 49979-L.)**

**LIBEL FILED:** August 28, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about August 18, 1950, from a foreign country.

**PRODUCT:** 14 210-pound bags of jamaica ginger at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1953. Norda Essential Oil & Chemical Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for distillation of the oil from the product, under the supervision of the Food and Drug Administration.

20895. Adulteration of canned pimentos. U. S. v. 14 Cases \* \* \*. (F. D. C. No. 35450. Sample No. 69965-L.)

LIBEL FILED: August 6, 1953, District of Colorado.

ALLEGED SHIPMENT: On or about June 25, 1953, by Nordic Trading Co., Inc., from New York, N. Y.

PRODUCT: 14 cases, each containing 50 cans, of pimentos at Denver, Colo. Examination showed that the product was undergoing chemical decomposition.

LABEL, IN PART: "La Esmerada FCA De Conservas VDA De Ramon Vela \* \* \* Pimientos Morrones Sweet Red Peppers 1st Qty. Extra Nett 15 Oz. Produced and Packed In Spain."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 11, 1953. Nordic Trading Co., Inc., having filed a claim and subsequently withdrawn it, judgment of condemnation was entered and the court ordered that the product be destroyed.

### VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

20896. Adulteration and misbranding of chocolate malt-flavored sirup with vitamins. U. S. v. Berko Malted Milk Co., Inc., and Solomon A. Berko and Gustave Berko. Plea of guilty by corporation and pleas of nolo contendere by individuals. Fine of \$1,000 against each defendant. (F. D. C. No. 35106. Sample No. 33832-L.)

INFORMATION FILED: August 12, 1953, Eastern District of New York, against Berko Malted Milk Co., Inc., Brooklyn, N. Y., Solomon A. Berko, president, and Gustave Berko, secretary-treasurer of the corporation.

ALLEGED SHIPMENT: On or about July 25, 1952, from the State of New York into the State of Michigan.

LABEL, IN PART: "Cook's Chocolate Malt Flavored Syrup With Vitamins \* \* \* Distributed Exclusively By Cook Coffee Co. Cleveland Home Tea Co. Detroit India Tea Co. Chicago Central Tea Co. Toledo-Detroit."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each ounce contains \* \* \* Vitamin B<sub>1</sub> \* \* \* 222 U. S. P. units" was false and misleading since each ounce of the article contained less than 222 U. S. P. units of vitamin B<sub>1</sub>.

DISPOSITION: September 15, 1953. The corporation having entered a plea of guilty and the individuals having entered pleas of nolo contendere, the court fined each defendant \$1,000, a total fine of \$3,000.

20897. Adulteration and misbranding of multiple vitamin capsules. U. S. v. 27 Dozen Bottles \* \* \*. (F. D. C. No. 35087. Sample No. 39518-L.)

LIBEL FILED: June 23, 1953, District of Colorado.



ALLEGED SHIPMENT: On or about April 13, 1953, by the Jamieson Pharmacal Co., from Glendale, Calif.

PRODUCT: 27 dozen 100-capsule bottles of multiple vitamin capsules at Grand Junction, Colo. Examination showed that the product contained 60 percent of the declared amount of vitamin D.

LABEL, IN PART: "Medi-Vita Medicinal Potency Multiple Vitamins \* \* \* Each Capsule Contains: \* \* \* 1,200 U. S. P. Units Vitamin D (Activated Ergosterol)."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Capsule Contains: \* \* \* 1,200 U. S. P. Units Vitamin D" was false and misleading as applied to the article, which contained less than 1,200 U. S. P. units of vitamin D per capsule.

DISPOSITION: August 18, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use and not for sale.

20898. Misbranding of vitamin and mineral tablets. U. S. v. 12 Bottles, etc. (F. D. C. No. 34884. Sample Nos. 40638-L to 40648-L, incl.)

LIBEL FILED: March 16, 1953, Western District of Washington.

ALLEGED SHIPMENT: On various dates, on and after October 14, 1952, by J. M. Sleighter, from Salem, Oreg.

PRODUCT: 12 bottles of the \$12.00-size, 41 bottles of the \$5.00-size, and 41 cartons of the sample size of Elemin mineral tablets; 3 bottles of the \$12.00-size and 25 bottles of the \$5.00-size of multiple vitamin tablets; 6 cartons of the \$9.00-size and 5 cartons of the \$30.00-size of an article designated as "Royal Formula" and containing a number of Elemin mineral tablets and a number of multiple vitamin tablets; and 7 cartons of the \$21.00-size and 4 cartons of the \$12.00-size of an article designated as "Supreme Formula" and containing a number of Elemin mineral tablets and a number of multiple vitamin tablets, at Seattle, Wash., together with a number of accompanying leaflets, circulars, and booklets entitled "Elemin Mineral Tablets," "Elemin Mineral Tablets and Royal Formula Multiple Vitamins," "Elemin Mineral Tablets and Supreme Formula Multiple Vitamins," "Mineral Chart," "It's Later Than You Think Watch Your Diet," "Health Facts You Should Know! Elemin Mineral tablets \* \* \*," "Health Facts You Should Know. Compiled by A. Goeke," "Facts You Should Know," "Did You Know That 999 out of every 1000 people lack the proper nutrition," "Young Middle Aged and Elderly People!" "The Following is a Reprint of a Published Article, For Informative and educational purposes only, *not to be used in the sale of any product*," "Soil A Foundation of Health," and "Modern Miracle Men," all of which contained statements relating to the articles.

RESULTS OF INVESTIGATION: Some of the leaflets, circulars, and booklets mentioned above were shipped by J. M. Sleighter from Salem, Oreg., on various dates during 1951, 1952, and 1953, and some of the material was printed locally on the order of Loran S. Stone of Seattle, Wash., the consignee of the products, or obtained by him from a supplier in Milwaukee, Wis.

LABEL, IN PART: (Elemin Mineral Tablets) "As a Source of the Minerals Iron and Iodine Contains: Iodine and Iron as naturally present in dehydrated



kelp, iron gluconate and a sedimentary mineral deposit, with excipients \* \* \* Four Tablets Per Day Will Provide: Iodine—Not less than 0.2 milligrams 200% minimum daily adult requirements. Iron—Not less than 30.0 milligrams 300% minimum daily adult requirements. \* \* \* The ingredients in this product are from dehydrated kelp, iron gluconate and sedimentary mineral deposits"; (\$12.00-size and \$5.00-size) "Manufactured for Morgan & Bush, Inc. 415 Brower Bldg., Bakersfield, Calif. Distributed Exclusively By—G & J Distributors 1945 Grove St., Berkeley 4, California"; (sample size) "Distributed by G & J Distributors 1945 Grove St., Berkeley 4, Calif."

(G & J Formula No. 701 [or 601] multiple vitamins) "Each 2 Tablets Will Supply: Vitamin A \* \* \* . . . 5,000 U. S. P. Units Vitamin D \* \* \* . . . 1,000 U. S. P. Units Vitamin B<sub>1</sub> \* \* \* . . . 3.0 Mg. Vitamin B<sub>2</sub> \* \* \* . . . 2.0 Mg. Vitamin B<sub>6</sub> \* \* \* . . . 1.0 Mg. Vitamin B<sub>12</sub> . . . 1.0 Mcg. Vitamin C \* \* \* . . . 50.0 Mg. Vitamin E \* \* \* . . . 3.0 Mg. Niacinamide . . . 20.0 Mg. Calcium Pantothenate . . . 5.0 Mg. Concentrated Beef Liver Extract . . . 65.0 Mg. Mfd. for G & J Distributors Dist by 1945 Grove Street Berkeley 4, California \* \* \* G & J Multiple Vitamin Tablets are formulated as a convenient source for increasing intake of listed ingredients."

(Royal Formula) "Elemin \* \* \* Mineral Tablets As a Source of the Minerals Iron and Iodine Contains: Iodine and Iron as naturally present in dehydrated kelp, iron gluconate and a sedimentary mineral deposit with excipients \* \* \* G & J Multiple Vitamins \* \* \* 2 Tablets Daily Will Supply: MDR Vitamin A \* \* \* 10,000 USP Units 250% Vitamin D \* \* \* 1,000 USP Units 250% Vitamin B<sub>1</sub> \* \* \* 3.0 Mg. 300% Vitamin B<sub>2</sub> \* \* \* 2.0 Mg. 100% Vitamin B<sub>6</sub> \* \* \* 1.0 Mg. Vitamin B<sub>12</sub> \* \* \* 1.0 Mcg. Vitamin C \* \* \* 50.0 Mg. 166% Vitamin E \* \* \* 3.0 Mg. Niacinamide 20.0 Mg. Calcium Pantothenate 5.0 Mg. Choline \* \* \* 10.0 Mg. Inositol 10.0 Mg. Chlorophyll 1.0 Mg. Para Aminobenzoic Acid 5.0 Mg. Rutin 1.0 Mg. Conc. Beef Liver Extract 65.0 Mg. Plus other B-Complex factors from natural sources, (Yeast and Liver) With excipients and Binders. \* \* \* Distributed by G & J Distributors 1945 Grove St.—Berkeley 4, Calif."

(Supreme Formula) "Elemin \* \* \* Mineral Tablets As a Source of the Minerals Iron and Iodine Contains: Iodine and Iron as naturally present in dehydrated kelp, iron gluconate and a sedimentary mineral deposit with excipients, and artificial color added to coating. 4 Tablets per day (suggested daily intake) will provide: Iodine—not less than 0.2 Mg. 200% minimum daily adult requirement. Iron—not less than 30.0 Mg. 300% minimum daily adult requirement. Distributed by G & J Distributors 1945 Grove St.—Berkeley 4, Calif. 2 Tablets daily will supply: MDR Vitamin A . . . 25,000 USP Units 625% Vitamin D . . . 1200 USP Units 200% Vitamin B<sub>1</sub> . . . 8.0 Mg. 800% Vitamin B<sub>2</sub> . . . 5.0 Mg. 250% Vitamin B<sub>6</sub> . . . 2.0 Mg. Vitamin B<sub>12</sub> . . . 1.0 Mcg. Vitamin C . . . 150.0 Mg. 500% Vitamin E . . . 10.0 Mg. Niacin . . . 10.0 Mg. Niacinamide . . . 40.0 Mg. Calcium Pantothenate . . . 10.0 Mg. Inositol 10.0 Mg. Choline . . . 10.0 Mg. Para Aminobenzoic Acid . . . 10.0 Mg. Rutin . . . 1.0 Mg. Folic Acid . . . 1.0 Mg. Chlorophyll . . . 1.0 Mg. Alfalfa Concentrate, Excipients, Binders, and Artificial Color in Coating."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the articles, namely, the above-mentioned leaflets, circulars, and booklets, was false and misleading since the representations and suggestions made in such labeling were contrary to fact. The labeling when taken as a whole, as well as in specific statements, and when read in the light of the setting in which such labeling



was intended to be read, conveyed to the public a meaning which represented and suggested—

(a) That malnutrition is the only disease; that the causes of fatal diseases are not germs but food consumed; that Americans occupy a low position in the national health scale; that 99% of Americans are suffering from mineral deficiencies resulting in sickness, suffering, and the shortening of life; that complete health requires, in addition to a wide variety of natural foods, supplementary vitamins and minerals; that a balanced and fully nourishing diet must contain boron, zinc, and cobalt; that millions of Americans are suffering from rheumatism, heart disease, arthritis, and other diseases resulting from faulty nutrition; that vast areas of soil do not contain needed minerals, and, as a consequence, people and also animals subsisting on crops grown on such soil are starving, weak, and increasingly suffering from degenerative diseases, including high blood pressure, heart trouble, tumor, cancer, rheumatism, and many other diseases; and that such consequences can be prevented by the ingestion of Elemin tablets and G & J multiple vitamins tablets;

(b) That vitamin and mineral supplementation of the ordinary diet, such as the vitamins and minerals supplied by Elemin tablets and G & J multiple vitamins tablets is needed to prevent mental disease, cancer in newborn infants, and poliomyelitis;

(c) That Elemin tablets and G & J multiple vitamins tablets constitute an effective remedy for varicose veins;

(d) That sodium is an alkalizer and a digestive, it enables the body to take up iron, and it prevents catarrh and hardening processes; its lack causes iron insufficiency, indigestion, and old age deposits; sulfur purifies and tones up the system, makes hair glossy, and promotes bile secretion; its lack causes piling up of impurities, and failure of the liver to function normally; potassium heals, balances, activates, relieves pain, helps prevent constipation, stimulates the liver, and renders tissues elastic; its lack causes constipation, pimples, failure of sores to heal, and liver disorders; magnesium is refreshing, promotes sleep, gives control of the nervous system and recuperation, and aids the complexion; its lack causes restlessness, excess acidity, and nervous conditions; iodine regulates the glands and protects the brain from body toxins; chlorine keeps joints and tendons supple, helps prevent pyorrhea, autointoxication, and excess fat; its lack causes undue accumulation of waste matter; fluorine acts as an antiinfective agent and helps prevent bone disease; its lack causes bad eyesight, pyorrhea, and susceptibility to infection; silicon makes tissues lithe and supple, the hair glossy, and the eyesight and complexion bright; its lack causes baldness, gray hair, bad complexion, and skin trouble; manganese promotes proper nutrition and fertility and activates other minerals; its lack causes sterility, lameness, and poor joints; and that such minerals supplied by Elemin tablets would accomplish the results stated and implied; would correct the conditions and deficiencies enumerated; and would supply such minerals to prevent such conditions and deficiencies from occurring;

(e) That a clay, described in the labeling as "sedimentary mineral deposit" occurring near Panaca, Nev., used as an ingredient of Elemin tablets contributed significantly to the diet of the user.

The above-mentioned articles were misbranded while held for sale after shipment in interstate commerce. The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4233.

DISPOSITION: May 18, 1953. Default decree of condemnation and destruction.



## MISCELLANEOUS FOODS

20899. Misbranding of Chil-zert. U. S. v. 651 Cases \* \* \*. Government's motion for summary judgment granted. Decree of condemnation. (F. D. C. No. 34065. Sample No. 46335-L.)

**LIBEL FILED:** September 24, 1952, Eastern District of Louisiana; amended libel filed on or about March 4, 1953.

**ALLEGED SHIPMENT:** On or about July 15, 1952, by the Rich Products Corp., from Buffalo, N. Y.

**PRODUCT:** 651 cases, each containing 24 boxes, of Chil-zert at New Orleans, La. Examination showed that the product had the appearance and consistency of ice cream and that its taste and texture were similar to that of chocolate-flavored ice cream. The ingredient statement on the label listed "vegetable fat," "vegetable protein," and "chocolate flavored syrup."

**LABEL, IN PART:** (Box) "Rich's Chocolate Chil-zert Not An Ice Cream Contents: 1 Pt. Liq."

**NATURE OF CHARGE:** Misbranding, Section 403 (c), the article was an imitation of another food, chocolate-flavored ice cream, and the label of the article failed to bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since "vegetable fat," "vegetable protein," and "chocolate flavored syrup" are not common or usual names for ingredients. The article was misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

**DISPOSITION:** Richsert, Inc., Buffalo, N. Y., appeared as claimant, and, on November 12, 1952, pursuant to a stipulation between the claimant and the Government, the libel action was removed for trial to the United States District Court for the Northern District of New York. Thereafter, the claimant filed a motion to dismiss the libel for failure to state a claim upon which relief would be granted and for summary judgment.

The Government filed a request for admissions, which were subsequently answered by the claimant, after which the Government made a cross motion for summary judgment. After consideration of the arguments and briefs of counsel, the court, on June 10, 1953, handed down the following decision:

BRENNAN, *District Judge:*

## DECISION

"On September 30, 1952, about 650 cases of Rich's Chocolate Chil-Zert was seized at New Orleans, Louisiana, under the provisions of the Federal Food, Drug and Cosmetic Act, (21 U. S. C. A. 334 [304]). The libel alleged that the food product known as 'Chil-Zert' is misbranded in that it is an imitation of another food, to-wit, chocolate-flavored ice cream, and fails to bear the word 'imitation' followed by the name of the food imitated as required by the provisions of 21 U. S. C. A. 343 [403] (c), and that it was further misbranded in that its label fails to bear the name of each ingredient as required by the provisions of 21 U. S. C. A. 343 [403] (i) (2). The case was removed to this district under the provisions of 21 U. S. C. A. 334 [304] (a).

"Claimant has moved to dismiss the libel insofar as the misbranding charged under Section 343 [403] (c) is concerned, for failure to state a claim upon which relief can be granted, and for a summary judgment dismissing said



charge. (Federal Rules of Civil Procedure, 12 (b) and 56.) The government has made a cross-motion for a summary judgment condemning the food in question; the motion being addressed to the same allegation of misbranding as is affected by claimant's motion.

"The moving papers here consist of the libel, an affidavit with exhibits attached executed by the president of the claimant, libellant's requests for admissions, and the claimant's reply thereto. The motion is then to be treated as one for summary judgment. (F. R. C. P. 12 (b).)

"The problem here involves the construction and application of that part of the section of the Federal Food, Drug and Cosmetic Act quoted below:

Sec. 403. A food shall be deemed to be misbranded—

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated. 21 U. S. C. A. 343 (c).

"Imitation is initially a question of fact, but both parties agree that there are no material facts in dispute, and the question becomes one of law.

"Chil-Zert is a food product manufactured at Buffalo, New York, and the cases seized were shipped in interstate commerce to New Orleans, Louisiana, in the latter half of the year 1952. It is a comparatively new product, having been offered for sale in only two cities. It contains the usual ingredients of chocolate-flavored ice cream in approximately the same proportions, except that soy fat and soy protein are used therein in place of milk fat and milk protein. The product is similar in taste and appearance to chocolate ice cream. It has the same characteristics such as color, taste, texture, body and melting qualities. It is manufactured substantially in the same manner as chocolate-flavored ice cream, and with the use of similar machinery. It is appropriate for use for the same purposes for which ice cream is used and is packaged and offered for sale in containers or cartons of the same size, shape and description as those used in the packaging and selling of ice cream. The retail price of pint packages of chocolate Chil-Zert is substantially lower than the average retail price of a pint of ice cream, as shown by Labor Department statistics for 1951, cited by the claimant.

"The food sought to be condemned is packaged in pint carton containers with the words 'Rich's Chocolate Chil-Zert' prominently printed on the four sides of the container and on the top and bottom thereof. Immediately below the words quoted above and in prominent letters the words 'not an ice cream' appear, and on two sides of the carton there also appears the words 'contains no milk or milk fat!' The ingredients are printed on two sides of the carton, and the product is referred to as 'The Delicious New Frozen Dessert!' Advertising copy is attached to the moving papers which need not be described in detail. It is sufficient to say that there is no claim made here as to deceptive or misleading statements as to the advertising of the product.

"The government contends that Chocolate Chil-Zert is an imitation of another food, to-wit, chocolate ice cream, and is, therefore, misbranded, since the word 'imitation' followed by the name of the food imitated does not appear upon the container in which the food is packed, shipped and offered for sale. The claimant contends that Chocolate Chil-Zert is a new distinctive product, composed of natural rather than artificial ingredients; that, as labeled, no element of deception is involved, and it is, therefore, not an imitation within the meaning of the statute. Claimant further contends that, since no legal standard has been promulgated for chocolate ice cream, the test of imitation may not be applied.

"Congress has not defined the word 'imitation' as it is used in the present section of the law set forth above. Judicial precedent does not confine its meaning within a rigid mold. Ordinary understanding of the term appears to be the test of its meaning.

Imitation foods are dealt with in Section 403 (c) of the Act. In that section Congress did not give an esoteric meaning to "imitation." It left it to the understanding of ordinary English Speech. 62 Cases of Jam v. United States, 340 U. S. 593 at 599.



"It is plain that no all-inclusive test of imitation can be prescribed. Resemblance and taste are elements as indicated in the case last above quoted at page 599. Smell is included as one of the elements. (U. S. v. 10 Cases, more or less, Bred Spred, 49 F 2nd 87). The word connotes inferiority, (62 Cases of Jam v. United States, supra, page 600), in the sense that it is cheapened by the substitution of ingredients. Resemblance alone is not enough to constitute imitation. (Baltimore Butterine Co. v. Talmadge, 32 F 2nd 904; Affirmed 37 F 2nd 1014). It would seem that imitation is tested not by the presence or absence of any one element of similarity, but rather by the effect of a composite of all such elements. As indicated above, Chil-Zert is identical with ice cream in its method of manufacture, packaging and sale. It is similar in taste, appearance, color, texture, body and melting qualities. It has identical uses; its composition differs only from ice cream in the substitution of a cheaper ingredient, namely, vegetable oil in place of milk products. It is, therefore, something less than the genuine article chocolate ice cream. It is inescapable that the ordinary understanding of English speech would denominate it as an imitation of ice cream.

"The claimant's contentions have not been overlooked and will be briefly discussed. The following quotation taken from claimant's brief appears to the Court to be the sum total of claimant's contention. 'We predicate our case, however, in the last analysis, upon the principle that the manufacturer of Chil-Zert has a right to market the product *if he does so honestly*, regardless of whether it has greater or less merit than an existing product such as ice cream.' [Emphasis added.]

"Claimant does not purport to pass off its product as ice cream. The labeling of the product in language negates any such contention. It may be debatable whether or not the words 'not an ice cream' will act as a warning or as a snare for the unwary purchaser. In any event, it is not for the claimant to choose the means or method to advise the public that his product is not in fact the one which is imitated. The statute in explicit terms makes a provision therefor. It may be that the requirement of the statute would be less effective than the means adopted by the claimant. Such an argument is one for Congress and not for the Court. Truthful labeling does not exempt Chil-Zert from the requirement of the statute. (Federal Security Administrator v. Quaker Oats Co., 318 U. S. 218; U. S. v. 716 Cases 'Del Comida Brand Tomatoes,' 179 F. 2nd 174; U. S. v. 30 Cases 'Leader Brand Strawberry Fruit Spread,' 93 F Sup. 764). Neither is deception nor intent to mislead necessary to establish that claimant's product is an imitation. (Research Laboratories v. U. S., 167 F 2nd 410; Cert. denied 335 U. S. 843; U. S. v. 30 Cases 'Leader Brand Strawberry Fruit Spread,' supra, at 769). The Court is impressed that claimant's argument proceeds as if the distinctive name provision of the 1906 Act is still in force, and claimant seeks to use the fanciful name of Chil-Zert with informative labeling to escape the provisions of the present statute. (The distinctive name provision was eliminated in the 1938 Act.)

"Claimant's contention to the effect that chocolate ice cream is not imitated by Chil-Zert because no legal standard has been promulgated therefor will be briefly referred to. In other words, it is contended that a food may not be imitated until it is defined. A short answer to such an argument is that the statute does not refer to an imitation only of foods for which a standard has been set. If Congress had intended to so limit the law, it is reasonable to conclude that it would have so stated. The statutory provisions as to adulterations apply to non-standardized food. (U. S. v. 36 Drums of 'Pop'n Oil,' 164 F 2nd 250 at 252; Bruce's Juice v. U. S., 194 F 2nd 935). The same reasoning would seem to apply to the misbranding provisions of the law.

"Research fails to disclose that the section of the statute invoked here has been extensively used. In fact, no case has been cited by either counsel in which Section 343 [403] (c) of Title 28, U. S. C. A. has been invoked under circumstances comparable to those which exist here. The Court has tried to keep in mind the beneficial purposes of the statute and at the same time not to unduly restrict the marketing of the many variations of well known food products. It is difficult to conceive that the statute invoked has any purpose unless it is applicable here. It is concluded that the claimant's motions are denied, and the libellant's motion for a summary judgment is granted. In view of the decision, the procedural difficulties discussed in the



briefs as to the applicability of the summary judgment rule need no discussion.  
"It is ORDERED accordingly."

In accordance with the above opinion, the court, on July 29, 1953, entered a decree of condemnation and ordered that the product be delivered to a charitable institution.

20900. Misbranding of cheese Kornees, garlic Kornees, and onion Kornees. U. S. v. 94 Cases, etc. (F. D. C. No. 35238. Sample Nos. 52467-L to 52469-L, incl.)

**LIBEL FILED:** May 13, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about March 9 and 31, 1952, and April 8, 1953, by Keystone Food Products Co., Inc., from Easton, Pa.

**PRODUCT:** 94 cases of cheese Kornees, 72 cases of garlic Kornees, and 107 cases of onion Kornees at New York, N. Y. Each case contained 12 jars.

**LABEL, IN PART:** (Jar) "Cresca Baked Cheese [or "Garlic" or "Onion"] Kornees \* \* \* Net Wt. 4¾ Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear labels containing an accurate statement of the quantity of the contents (Examination showed that the articles were short weight.)

**DISPOSITION:** July 8, 1953. Keystone Food Products Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

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with vitamins_____	20896	Jamaica ginger_____	20894
Cinnamon quills_____	20893		

<sup>1</sup> (20899) Seizure contested. Contains opinion of the court.

	N. J. No.		N. J. No.
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## SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

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	N. J. No.		N. J. No.
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canned pimentos-----	20895	canned pineapple-----	20879
		Wilson & Co.:	
		butter-----	20865

<sup>1</sup> (20899) Seizure contested. Contains opinion of the court.

# THE

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### TITLE 2—THE PRESIDENT

#### EXECUTIVE ORDER 10434

Department of War and Navy  
Act of 1950, 4 Stat. 100

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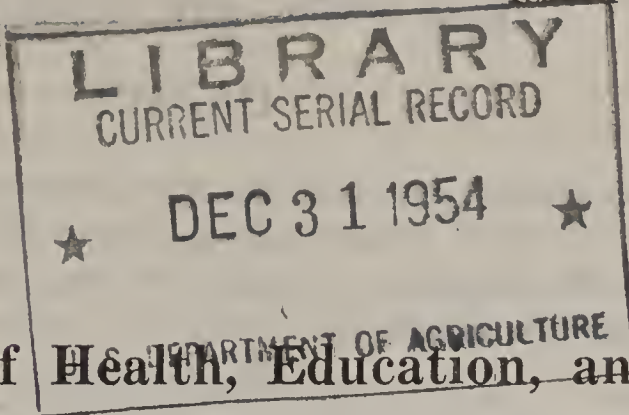
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20901-20950

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *December 10, 1954.*

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## CANDY

**20901. Action to enjoin and restrain the interstate shipment of adulterated candy. U. S. v. Luden's, Inc., Daniel W. Dietrich, H. Earl Erb, and Robert B. Esterly. Temporary restraining order entered. Action subsequently dismissed. (Inj. No. 247.)**

**COMPLAINT FILED:** On or about March 5, 1952, Eastern District of Pennsylvania, against Luden's, Inc., Reading, Pa., Daniel W. Dietrich, president of the corporation, H. Earl Erb, secretary-treasurer, and Robert B. Esterly, production manager.

**NATURE OF CHARGE:** The complaint alleged that the defendants were engaged in the manufacture and distribution of candy and had been and were at the time of filing the complaint causing the introduction and delivery for introduction into interstate commerce of candy which was adulterated under Section 402 (a) (3) in that it consisted in part of filthy substances by reason of the presence of rodent and insect filth, and under Section 402 (a) (4) in that the candy had been prepared and packed at the corporation's Reading plant under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of rodent excreta, rodent urine, live and dead insects, rodent-gnawed materials, and nondescript filth in and around places in the plant where the article was being prepared and packed and in and around equipment and materials used for preparing and packing the article. The insanitary conditions also resulted from general carelessness on the part of the defendants and their employees.

The complaint alleged also that various inspections had been made of the corporation's Reading plant by inspectors of the Food and Drug Administration, at which times the insanitary conditions were brought to the attention of the defendants and their employees, and that despite the warnings conveyed by such plant inspections, the defendants continued to cause to be introduced and delivered for introduction into interstate commerce adulterated candy.

**DISPOSITION:** On March 5, 1952, the court issued a temporary restraining order enjoining the defendants against the introduction and delivery for introduction into interstate commerce of candy which was adulterated within the meaning of Section 402 (a) (3) and (4). By stipulation of the parties, the temporary restraining order was continued in effect until May 16, 1953. On May 20, 1954, as a result of the complete correction of the conditions complained of, and with the consent of all parties, an order was entered dismissing the action.

**20902. Adulteration of coconut bonbons. U. S. v. Roy Z. Hershey (Pitt Chocolate Co.). Plea of not guilty. Tried to the court and jury. Verdict of guilty. Defendant fined \$1,500, plus costs, and sentenced to 4 months in jail. Jail sentence suspended and defendant placed on probation for 3 years. (F. D. C. No. 35188. Sample Nos. 3049-L, 8294-L, 8296-L, 44615-L to 44617-L, incl.)**

**INDICTMENT RETURNED:** November 17, 1953, Western District of Pennsylvania, against Roy Z. Hershey, trading as the Pitt Chocolate Co., Wilkinsburg, Pa.



**ALLEGED SHIPMENT:** On or about February 10 and March 5 and 10, 1953, from the State of Pennsylvania into the District of Columbia and the States of Maryland and Maine.

**LABEL, IN PART:** (Carton) "Pitt Chocolate Co. Wilkinsburg, Pa. Vanilla [or "Chocolate," "Strawberry," or "Lime"]" and "Chocolate [or "Vanilla," "Lemon," "Strawberry," or Orange"] 16 lbs. Pitt Fork Dipped Coconut Bon Bons Pitt Chocolate Co. Wilkinsburg, Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 5, 1954. The defendant having entered a plea of not guilty, the case came on for trial before the court and jury, and at its conclusion, the jury returned a verdict of guilty. The court fined the defendant \$1,500, plus costs, and sentenced him to 4 months in jail. The jail sentence was suspended, and the defendant was placed on probation for 3 years.

**20903. Adulteration of candy. U. S. v. 9 Cartons, etc. (F. D. C. No. 35704. Sample Nos. 62200-L to 62203-L, incl.)**

**LIBEL FILED:** October 8, 1953, Western District of Arkansas.

**ALLEGED SHIPMENT:** During April and June, 1953, from Muskogee, Okla.

**PRODUCT:** 9 cartons, each containing 15 pounds, of candy creams; 21 cases, each containing 12 8-ounce bags, of peanut candy; 37 cases, each containing 12 16-ounce packages, of candy fruit slices; and 11 cases, each containing 12 16-ounce packages, of assorted cream candy, at Rogers, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), various portions of the candy consisted in whole or in part of a filthy substance by reason of the presence of insects, and certain portions consisted in whole or in part of a decomposed substance by reason of the presence of mold. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 19, 1953. Default decree of condemnation and destruction.

## CEREALS AND CEREAL PRODUCTS

### FLOUR

**20904. Adulteration of flour. U. S. v. 53 Bags, etc. (F. D. C. No. 35939. Sample Nos. 83478-L, 83479-L.)**

**LIBEL FILED:** October 27, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about September 25, 1952, and March 6, 1953, from Atchison, Kans.

**PRODUCT:** 94 50-pound bags of flour at Des Moines, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 31, 1953. The Central Wholesale Grocery Co., Des Moines, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. The product was denatured for use as animal feed.

**20905. Adulteration of flour. U. S. v. 183 Bags \* \* \*. (F. D. C. No. 35518. Sample No. 62194-L.)**

**LIBEL FILED:** September 30, 1953, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about May 11, 1953, from Fort Worth, Tex.

**PRODUCT:** 183 25-pound bags of flour at De Queen, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 3, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20906. Adulteration of flour. U. S. v. 50 Bags, etc. (F. D. C. No. 35525. Sample Nos. 61829-L, 82213-L.)**

**LIBEL FILED:** October 5, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about November 22, 1952, and January 14 and June 26, 1953, from Kansas City, Mo., and Atchison, Kans.

**PRODUCT:** 81 50-pound bags of flour at Falls City, Nebr., in possession of the Falls City Mercantile Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine, insects, and insect fragments; and, Section 402 (a) (4), a portion of the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 22, 1953. Default decree of condemnation and destruction.

**20907. Adulteration of flour. U. S. v. 48 Bags, etc. (F. D. C. No. 35915. Sample No. 62199-L.)**

**LIBEL FILED:** October 7, 1953, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about May 1 and July 20 and 23, 1953, from Yukon, Okla.

**PRODUCT:** 48 25-pound bags and 12 50-pound bags of flour at Fort Smith, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** November 23, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**20908. Adulteration of flour. U. S. v. 15 bags \* \* \*. (F. D. C. No. 35935. Sample No. 82228-L.)**

**LIBEL FILED:** October 27, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about February 4, 1953, from Atchison, Kans.

**PRODUCT:** 15 50-pound bags of flour at Norfolk, Nebr., in possession of the Nash-Finch Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 3, 1953. Default decree of condemnation and destruction.

**20909. Adulteration of flour. U. S. v. 29 Bags \* \* \*. (F. D. C. No. 35519. Sample No. 53246-L.)**

**LIBEL FILED:** September 29, 1953, Western District of Arkansas.

**ALLEGED SHIPMENT:** On or about May 26, 1953, from Enid, Okla.

**PRODUCT:** 29 25-pound bags of flour at Camden, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 23, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20910. Adulteration of flour. U. S. v. 12 Bags \* \* \*. (F. D. C. No. 35947. Sample No. 61586-L.)**

**LIBEL FILED:** October 29, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about June 30, 1953, from Wichita, Kans.

**PRODUCT:** 12 50-pound bags of flour at Omaha, Nebr., in possession of Ancona Bros. Wholesale Grocery.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and insects; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 3, 1953. Default decree of condemnation and destruction.

**20911. Adulteration of waffle flour. U. S. v. 41 Cases \* \* \*. (F. D. C. No. 35910. Sample No. 70766-L.)**

**LIBEL FILED:** October 6, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 10, 1951, from Warsaw, Ind.

**PRODUCT:** 41 cases, each containing 10 5-pound bags, of waffle flour at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 6, 1953. Default decree of condemnation and destruction.

**20912. Adulteration of malt flour. U. S. v. 165 Bags \* \* \*. (F. D. C. No. 35945. Sample No. 69691-L.)**

**LIBEL FILED:** November 6, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about June 15, 1953, from Minneapolis, Minn.

**PRODUCT:** 165 100-pound bags of malt flour at Golden, Colo., in possession of the Adolph Coors Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 24, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

### MACARONI AND NOODLE PRODUCTS

**20913. Misbranding of egg noodles and enriched egg noodles. U. S. v. Aunt Sarah's Food Products (J. Coffaro & Sons), Charles C. Coffaro, Philip J. Coffaro, and John B. Galioto (Galioto Bros. Co.). Pleas of guilty. Fine of \$250 against each defendant. (F. D. C. No. 35733. Sample Nos. 54238-L 54239-L, 58847-L, 58850-L, 58853-L, 70912-L.)**

**INFORMATION FILED:** December 3, 1953, Northern District of Illinois, against Aunt Sarah's Food Products, a corporation, trading as J. Coffaro & Sons, Chicago, Ill., against Charles C. Coffaro, president, and Philip J. Coffaro, secretary-treasurer, of the corporation, and against John B. Galioto, trading as Galioto Bros. Co., Chicago, Ill.

**ALLEGED SHIPMENT:** On or about December 15, 1952, and January 7 and 27 and February 2 and 4, 1953, from the State of Illinois into the States of Michigan and Indiana.

**LABEL, IN PART:** (Bag) "Aunt Sarah's Pure Egg Noodles," "Kluski Simon's Brand \* \* \* Pure Egg Noodles," and "Defiance Brand Kluski Egg Noodles."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity for egg noodles and en-



riched egg noodles since the total solids of the articles contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definitions and standards.

Further misbranding, Section 403 (g) (1), the enriched egg noodles failed also to conform to the definition and standard of identity for enriched egg noodles since the article contained in each pound less than 4 milligrams of thiamine, less than 1.7 milligrams of riboflavin, less than 27 milligrams of niacin or niacinamide, and less than 13 milligrams of iron.

**DISPOSITION:** January 7, 1954. The defendants having entered pleas of guilty, the court fined each of the four defendants \$250, plus costs.

**20914. Adulteration and misbranding of egg noodles. U. S. v. 518 Cases, etc.**  
(F. D. C. No. 35475. Sample Nos. 20439-L to 20443-L, incl.)

**LIBEL FILED:** September 10, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about August 14, 1953, by the Quality Macaroni Co., from St. Paul, Minn.

**PRODUCT:** 518 cases, each containing 12 1-pound bags, and 199 cases, each containing 24 8-ounce bags, of egg noodles at Omaha, Nebr.

**LABEL, IN PART:** (Bag) "Quality Brand Fancy Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in whole or in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

**DISPOSITION:** September 18, 1953. The shipper of the product having consented to the entry of a decree, judgment was entered and the court ordered that the product be delivered to charitable institutions.

**20915. Adulteration of egg noodles. U. S. v. 18 Cases, etc.** (F. D. C. No. 35069. Sample Nos. 58544-L to 58546-L, incl.)

**LIBEL FILED:** June 9, 1953, Northern District of Indiana.

**ALLEGED SHIPMENT:** On or about April 24, 1953, by Schoneberger & Sons, from Chicago, Ill.

**PRODUCT:** 18 10-pound cartons and 26 cases, each case containing 12 1-pound packages, of egg noodles at Lafayette, Ind.

**LABEL, IN PART:** "Gold Spun Home Style Egg Noodles."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** July 21, 1953. Default decree of condemnation and destruction. On September 2, 1953, the court entered a supplemental decree ordering that the product be delivered to a county institution, for use as animal feed.

**DAIRY PRODUCTS****BUTTER**

**20916. Adulteration of butter. U. S. v. Parkston Creamery Co. Plea of guilty.**  
Fine, \$500. (F. D. C. No. 35200. Sample No. 58038-L.)

**INFORMATION FILED:** November 10, 1953, District of South Dakota, against the Parkston Creamery Co., a corporation, Parkston, S. Dak.

**ALLEGED SHIPMENT:** On or about July 23, 1953, from the State of South Dakota into the State of Illinois.

**LABEL, IN PART:** (Box) "Distributed By Kennedy & Parsons Co. Omaha Sioux City 64# Butter."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of maggots, insect fragments, and manure fragments, and by reason of the use of filthy cream in the preparation of the article; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 15, 1954. The defendant having entered a plea of guilty, the court fined it \$500.

**CHEESE**

**20917. Adulteration of cheddar cheese. U. S. v. Vester Keeter (Taney County Cheese Factory). Plea of guilty. Fine of \$25, plus costs. (F. D. C. No. 35177. Sample No. 53661-L.)**

**INFORMATION FILED:** September 23, 1953, Western District of Missouri, against Vester Keeter, trading as the Taney County Cheese Factory, at Bradleyville, Mo.

**ALLEGED VIOLATION:** On or about May 16, 1952, the defendant caused to be given to a firm engaged in the business of shipping cheese in interstate commerce, a guaranty to the effect that none of the cheese delivered by the defendant under the guaranty would be adulterated or misbranded.

On or about July 9, 1953, the defendant caused to be shipped and delivered to the holder of the guaranty, at Clinton, Mo., a quantity of cheese which was adulterated.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and manure, and by reason of the use of filth-contaminated milk in the preparation of the article; and, Section 402 (a) (4), the article had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 8, 1954. The defendant having entered a plea of guilty, the court fined him \$25, plus costs.

**20918. Misbranding of muenster cheese. U. S. v. 30 Boxes \* \* \*. (F. D. C. No. 35256. Sample No. 51711-L.)**

**LIBEL FILED:** May 19, 1953, Southern District of New York.



**ALLEGED SHIPMENT:** On or about April 24, 1953, by Armour Creameries, from Monroe, Wis.

**PRODUCT:** 30 boxes, each containing 6 6-pound loaves, of muenster cheese at New York, N. Y.

**LABEL, IN PART:** (Loaf) "Armour Star \* \* \* Cloverbloom Muenster Cheese Made From Pasteurized Milk"; (box) "Cloverbloom Muenster Cheese Red Rind Special Vacuum Packed."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Made From Pasteurized Milk" was false and misleading as applied to the article, which was made from milk which had not been pasteurized.

Further misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for muenster cheese since it was made from milk which had not been pasteurized.

**DISPOSITION:** July 21, 1953. Armour & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of using it in the manufacture of pasteurized process cheese which would comply with all requirements of the law.

## FEED AND GRAINS

**20919. Adulteration of canned dog food. U. S. v 52 Cases \* \* \*. (F. D. C. No. 35919. Sample No. 47851-L.)**

**LIBEL FILED:** October 9, 1953, Middle District of Alabama.

**ALLEGED SHIPMENT:** On or about March 6, 1952, from Momence, Ill.

**PRODUCT:** 52 cases, each containing 48 1-pound cans, of dog food at Dothan, Ala.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 13, 1953. Default decree of condemnation and destruction.

**20920. Adulteration and misbranding of swine mix. U. S. v. 36 Bags \* \* \*. (F. D. C. No. 33676. Sample No. 16641-L.)**

**LIBEL FILED:** On or about September 4, 1952, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about December 11, 1951, from Pasadena, Calif.

**PRODUCT:** 36 50-pound bags of swine mix at Kansas City, Mo. Analysis showed that the product contained 50 percent of the declared amount of vitamin D.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Contains not less than: \* \* \* Vitamin D-2, USP Units 2,000,000" was false and misleading as applied to the article, which contained less than that amount of vitamin D.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** September 23, 1952. Ray Ewing Co., Inc., Pasadena, Calif., claimant, having admitted that the allegations of the libel were true at the time of the seizure, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

## FISH AND SHELLFISH

**20921. Adulteration of canned jack mackerel. U. S. v. Pan-Pacific Fisheries, Inc.**  
Plea of guilty. Fine, \$250. (F. D. C. No. 35168. Sample No. 39513-L.)

**INFORMATION FILED:** September 23, 1953, Southern District of California, against Pan-Pacific Fisheries, Inc., Terminal Island, Calif.

**ALLEGED SHIPMENT:** On or about February 9, 1953, from the State of California into the State of Tennessee.

**LABEL, IN PART:** (Can) "California Jack Mackerel Packed by Pan-Pacific Fisheries, Inc. Terminal Island Calif., U. S. A."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed jack mackerel.

**DISPOSITION:** October 19, 1953. The defendant having entered a plea of guilty, the court fined it \$250.

**20922. Adulteration and misbranding of canned salmon. U. S. v. 124 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 35277, 35280. Sample Nos. 59278-L, 59280-L.)**

**LIBELS FILED:** May 25 and 27, 1953, Middle District of North Carolina.

**ALLEGED SHIPMENT:** On or about March 12 and 13, 1953, by Kenai Packers, from Seattle, Wash.

**PRODUCT:** 207 cases, each containing 48 1-pound cans, of salmon at Winston-Salem and Salisbury, N. C.

**LABEL, IN PART:** (Can) "Ocean Tang Brand Pink Salmon" and "Silver Bay Brand Pink Salmon."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), chum salmon had been substituted in whole or in part for pink salmon, which the article was represented to be.

Misbranding, Section 403 (a), the label designation "Pink Salmon" was false and misleading as applied to chum salmon.

**DISPOSITION:** July 17, 1953. The libel actions having been consolidated and Charles R. Allen, Inc., Charleston, S. C., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Food and Drug Administration.

**20923. Adulteration of frozen red snappers. U. S. v. 235 Pounds \* \* \*. (F. D. C. No. 35623. Sample No. 50123-L.)**

**LIBEL FILED:** September 9, 1953, District of New Jersey.



**ALLEGED SHIPMENT:** On or about July 3, 1953, by Ackerly & Sandiford, Inc., from New York, N. Y.

**PRODUCT:** 235 pounds of frozen red snappers in 3 cartons at Monmouth Beach, N. J.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** October 7, 1953. Default decree of condemnation and destruction.

**20924. Adulteration of frozen shrimp. U. S. v. 206 Cases \* \* \*. (F. D. C. No. 35506. Sample No. 56131-L.)**

**LIBEL FILED:** September 22, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about August 31, 1953, by Joe Grasso & Son, Inc., from Harlingen, Tex.

**PRODUCT:** 206 cases, each containing 10 5-pound cartons, of frozen shrimp at Buffalo, N. Y.

**LABEL, IN PART:** "Golden Brown Brand Brazilian Shrimp Frozen Fresh Packed by Joe Grasso & Son, Inc. Galveston, Texas."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** October 13, 1953. George Demos Transportation, Fort Wayne, Ind., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation under the supervision of the Department of Health, Education, and Welfare.

As a result of the segregation operations, 1,990 pounds of the product were found unfit and were destroyed.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20925. Adulteration of canned blackberries. U. S. v. 53 Cases \* \* \*. (F. D. C. No. 35918. Sample No. 62750-L.)**

**LIBEL FILED:** October 9, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about July 7 and September 8, 1952, from Memphis, Tenn.

**PRODUCT:** 53 cases, each containing 24 1-pound cans, of blackberries at Helena, Ark. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 8, 1953. Default decree of condemnation and destruction.

20926. Adulteration of canned blueberries. U. S. v. 76 Cases \* \* \*. (F. D. C. No. 35925. Sample No. 61572-L.)

LIBEL FILED: On or about October 21, 1953, Western District of Missouri.

ALLEGED SHIPMENT: On or about May 20 and October 1, 1952, from Cherryfield, Maine.

PRODUCT: 76 cases, each containing 24 15-ounce cans, of blueberries at Kansas City, Mo. Examination showed that the product was undergoing chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 4, 1954. Default decree of forfeiture and destruction.

20927. Adulteration of canned boysenberries. U. S. v. 38 Cases \* \* \*. (F. D. C. No. 35930. Sample No. 65447-L.)

LIBEL FILED: October 22, 1953, District of Minnesota; libel amended November 5 and 18, 1953.

ALLEGED SHIPMENT: On or about April 6, 1953, from Neosho, Mo.

PRODUCT: 38 cases, each containing 24 1-pound cans, of boysenberries at Minneapolis, Minn. Examination showed that the product was undergoing chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 28, 1953. A default decree was entered providing for the destruction of the product unless properly denatured for use as animal feed.

20928. Adulteration of canned grapefruit meats in sirup. U. S. v. 145 cases \* \* \*. (F. D. C. No. 35941. Sample No. 30944-L.)

LIBEL FILED: October 28, 1953, Southern District of Illinois.

ALLEGED SHIPMENT: During or about December 1949, from Tampa, Fla.

PRODUCT: 145 cases, each containing 24 1-pound, 4-ounce cans, of grapefruit meats in sirup at Quincy, Ill. Examination showed that the product was undergoing chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 10, 1953. Default decree of condemnation and destruction.

#### DRIED FRUIT

20929. Adulteration of raisins. U. S. v. 33 Cases, etc. (F. D. C. No. 35917. Sample Nos. 56136-L, 56137-L.)

LIBEL FILED: October 9, 1953, Western District of New York.



**ALLEGED SHIPMENT:** On or about November 1, 1951, and April 3, 1953, from Fresno, Calif.

**PRODUCT:** 33 30-pound cases and 75 30-pound cartons of raisins at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 16, 1953. Default decree of condemnation and destruction.

**20930. Adulteration of raisins. U. S. v. 73 Cartons \* \* \*. (F. D. C. No. 35926. Sample No. 83854-L.)**

**LIBEL FILED:** October 19, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about May 2, 1952, from Columbus, Ohio.

**PRODUCT:** 73 30-pound cartons of raisins at Burlington, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

### VEGETABLES

**20931. Adulteration of dried green split peas. U. S. v. 31 Bags \* \* \*. (F. D. C. No. 35909. Sample No. 78978-L.)**

**LIBEL FILED:** October 6, 1953, Southern District of Ohio.

**ALLEGED SHIPMENT:** On or about May 1, 1953, from Sterling, Colo.

**PRODUCT:** 31 100-pound bags of dried green split peas at Cincinnati, Ohio.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 16, 1953. Default decree of condemnation and destruction.

**20932. Adulteration of canned pumpkin. U. S. v. 43 Cases \* \* \*. (F. D. C. No. 35936. Sample No. 61959-L.)**

**LIBEL FILED:** October 27, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** During 1951 or 1952, from Owatonna, Minn.

**PRODUCT:** 43 cases, each containing 6 6-pound, 10-ounce cans, of pumpkin at Omaha, Nebr. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 30, 1953. The owner of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20933. Adulteration of canned pumpkin. U. S. v. 37 Cases \* \* \*. (F. D. C. No. 35938. Sample No. 82246-L.)**

**LIBEL FILED:** October 29, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about November 6, 1951, from Owatonna, Minn.

**PRODUCT:** 37 cases, each containing 6 6-pound, 10-ounce cans, of pumpkin at Grand Island, Nebr. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 30, 1953. The shipper of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that 2 cases of the product be returned to the shipper for examination and that the remainder be destroyed.

**20934. Adulteration of canned pumpkin. U. S. v. 12 Cases \* \* \*. (F. D. C. No. 35937. Sample No. 61587-L.)**

**LIBEL FILED:** October 27, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about October 23, 1951, from Owatonna, Minn.

**PRODUCT:** 12 cases, each containing 6 6-pound, 10-ounce cans, of pumpkin at Omaha, Nebr. Examination showed that the product was undergoing chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 30, 1953. The shipper of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

### **TOMATOES AND TOMATO PRODUCTS**

**20935. Adulteration of canned tomatoes. U. S. v. 1,999 Cases \* \* \*. (F. D. C. No. 35671. Sample No. 59183-L.)**

**LIBEL FILED:** September 28, 1953, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about August 31, 1953, by the Hynson Canning Co., from Federalsburg, Md.

**PRODUCT:** 1,999 cases, each containing 24 cans, of tomatoes at Tampa, Fla.

**LABEL, IN PART:** (Can) "Zakly-Rite Tomatoes Contents 1 lb. \* \* \* Distributed by Woodside Canning Co., Woodside, Del."



**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** November 18, 1953. The Paramount Canning Co., Tampa, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion under the supervision of the Food and Drug Administration.

As a result of the segregation operations, 231 cases and 3 cans of the product were found unfit and were destroyed.

**20936. Adulteration and misbranding of canned tomatoes. U. S. v. 155 Cases \* \* \*. (F. D. C. No. 35275. Sample Nos. 45256-L, 45259-L.)**

**LIBEL FILED:** On or about May 28, 1953, District of Rhode Island.

**ALLEGED SHIPMENT:** On or about March 6, 1953, from Preston, Md.

**PRODUCT:** 155 cases, each containing 24 1-pound cans, of tomatoes at Providence, R. I.

**LABEL, IN PART:** (Can) "Le Anda Tomatoes With Added Tomato Juice Packed by Walter T. Andrews & Son Cambridge, Maryland U. S. A."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** July 1, 1953. Default decree of condemnation and destruction.

**20937. Misbranding of canned tomatoes. U. S. v. 59 Cases \* \* \*. (F. D. C. No. 35732. Sample No. 72360-L.)**

**LIBEL FILED:** On or about October 19, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about October 6, 1952, by Gibbs & Co., Inc., from Baltimore, Md.

**PRODUCT:** 59 cases, each containing 24 cans, of tomatoes at Berwind, W. Va.

**LABEL, IN PART:** (Can) "Gibbs Contents 1 Lb. 12 Oz. Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

Further misbranding, Section 403 (h) (2), the article fell below the standard of fill of container for canned tomatoes since the article contained less than 90 percent of the total capacity of the container and the label failed to bear a statement that the article fell below the standard. The standard of fill of container for canned tomatoes is a fill of not less than 90 percent of the total capacity of the container.

**DISPOSITION:** November 9, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use.

20938. Misbranding of tomato paste. U. S. v. 214 Cases \* \* \*. (F. D. C. No. 35933. Sample No. 8595-L.)

LIBEL FILED: October 27, 1953, Northern District of New York.

ALLEGED SHIPMENT: On or about July 18, 1953, by the Taormina Co., from Donna, Tex.

PRODUCT: 214 cases, each containing 100 cans, of tomato paste at Syracuse, N. Y.

LABEL, IN PART: (Can) "Tomato Paste Salsadipomidoro \* \* \* Polly Brand Contents Six Ounces."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for tomato paste since it contained less than 25 percent of salt-free tomato solids, the minimum permitted by the definition and standard.

DISPOSITION: December 10, 1953. Default decree of condemnation and destruction.

20939. Misbranding of tomato puree. U. S. v. 546 Cases \* \* \*. (F. D. C. No. 35253. Sample No. 27606-L.)

LIBEL FILED: May 19, 1953, Southern District of New York.

ALLEGED SHIPMENT: On or about April 10, 1953, by the A. M. Beebe Co., from San Francisco, Calif.

PRODUCT: 546 cases, each containing 24 cans, of tomato puree at New York, N. Y.

LABEL, IN PART: (Can) "Au Gourmet Contents 6 Lbs. 10 Oz. Fancy Extra Heavy Tomato Puree 1.07 Specific Gravity."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short weight.)

DISPOSITION: July 14, 1953. Martinez Food Cannery, Ltd., Martinez, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## NUTS AND NUT PRODUCTS

20940. Adulteration of shelled peanuts. U. S. v. 197 Bags \* \* \*. (F. D. C. No. 35527. Sample No. 43494-L.)

LIBEL FILED: October 6, 1953, Northern District of California.

ALLEGED SHIPMENT: On or about March 25, 1953, from Suffolk, Va.

PRODUCT: 197 100-pound bags of shelled peanuts at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect webbing, and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.



**DISPOSITION:** November 17, 1953. The Sierra Candy Co., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of cleaning under the supervision of the Department of Health, Education, and Welfare.

As a result of the cleaning operations, 180 pounds of the product were found unfit and were denatured.

**20941. Adulteration of shredded coconut and poppyseed. U. S. v. 2 Bags, etc.**  
(F. D. C. No. 35931. Sample Nos. 61965-L, 61966-L.)

**LIBEL FILED:** October 27, 1953, District of Nebraska.

**ALLEGED SHIPMENT:** On or about November 13, 1952, and August 31, 1953, from Chicago, Ill., and New York, N. Y.

**PRODUCT:** 2 100-pound bags of shredded coconut and 1 75-pound drum of poppyseed at Schuyler, Nebr.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects; and, Section 402 (a) (4), the articles were held under insanitary conditions whereby they had become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 13, 1953. The owner of the products having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be destroyed.

## POULTRY

**20942. Adulteration of dressed poultry. U. S. v. 267 Pounds \* \* \*. (F. D. C. No. 35674. Sample No. 51924-L.)**

**LIBEL FILED:** On or about October 6, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 20, 1953, by J. E. Parker & Co., from Eaton, Ohio.

**PRODUCT:** 267 pounds of dressed poultry in 4 crates at New York, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirty birds and of a decomposed substance by reason of the presence of decomposed birds, and it was otherwise unfit for food by reason of the presence of extensively bruised birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** October 22, 1953. Default decree of condemnation and destruction. On November 4, 1953, the decree was amended to provide for the delivery of a portion of the product to the Food and Drug Administration and for the destruction of the remainder.

**20943. Adulteration of dressed turkeys. U. S. v. 215 Pounds \* \* \*. (F. D. C. No. 35677. Sample No. 51925-L.)**

**LIBEL FILED:** On or about October 6, 1953, Southern District of New York.

**ALLEGED SHIPMENT:** On or about September 21, 1953, by the Penobscot Poultry Corp., from Belfast, Maine.

PRODUCT: 215 pounds of dressed turkeys in 3 crates at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: October 22, 1953. Default decree of condemnation and destruction. On November 4, 1953, an amended decree was entered providing for the delivery of a portion of the product to the Food and Drug Administration and for the destruction of the remainder.

## SPICES, FLAVORS, AND SEASONING MATERIALS \*

20944. Adulteration of garlic powder. U. S. v. 4 Cans \* \* \*. (F. D. C. No. 35257. Sample No. 45164-L.)

LIBEL FILED: May 15, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 16, 1953, by Shoenfeld & Sons, from New York, N. Y.

PRODUCT: 4 cans of garlic powder at Boston, Mass.

LABEL, IN PART: (Can) "‘Mazar’ Garlic Powder Knoblauch Pulver \* \* \* Made and Packed by: Egyptian Food Processing & Essential Oil Factory 3 Baehlor Street—Cairo (Egypt) Product of Egypt Contents 28 Lbs. Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and dirt.

DISPOSITION: August 6, 1953. Default decree of condemnation and destruction.

20945. Adulteration of poppyseed. U. S. v. 90 Bags \* \* \*. (F. D. C. No. 35441. Sample No. 42750-L.)

LIBEL FILED: July 29, 1953, Northern District of California.

ALLEGED SHIPMENT: The product was imported into the United States from the foreign trade zone at San Francisco, Calif., on or about December 19, 1952.

PRODUCT: 90 110-pound bags of poppyseed at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 24, 1953. D. Hecht & Co., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Department of Health, Education, and Welfare. The product was reconditioned, with the result that 524 pounds were segregated as unfit.

20946. Adulteration and misbranding of iodized table salt. U. S. v. 42 Cases \* \* \*. (F. D. C. No. 35276. Sample No. 57377-L.)

LIBEL FILED: On or about May 26, 1953, District of Maryland.

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\*See also No. 20941.



**ALLEGED SHIPMENT:** On or about April 13, 1953, by the Watkins Salt Co., from Watkins Glen, N. Y.

**PRODUCT:** 42 cases, each containing 24 1-pound, 10-ounce packages, of iodized table salt at Baltimore, Md. Examination showed that the product contained 0.00295 percent of potassium iodide (29.5 percent of the declared amount).

**LABEL, IN PART:** (Package) "0.01% Potassium Iodide \* \* \* Royal Clover Brand Iodized Table Salt."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, potassium iodide, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement "0.01% Potassium Iodide" was false and misleading as applied to this article, which contained only 0.00295 percent of potassium iodide.

**DISPOSITION:** July 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

**20947. Misbranding of sausage seasoning. U. S. v. 48 Bags \* \* \*. (F. D. C. No. 35523. Sample No. 79080-L.)**

**LIBEL FILED:** September 29, 1953, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about April 3, 1953, by B. Heller & Co., from Chicago, Ill.

**PRODUCT:** 48 1-pound bags of sausage seasoning at Cleveland, Ohio.

**LABEL, IN PART:** "Malaboza Brand \* \* \* Pork Sausage Seasoning Southern Style, Extra Hot Contains Salt, Dextrose, Red Pepper, Oil of Clove and Sage and Oleoresin Capsicum."

**NATURE OF CHARGE:** Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and, Section 403 (k), the article contained a chemical preservative, sodium sulfite, and it failed to bear a label stating that fact.

**DISPOSITION:** November 12, 1953. Default decree of condemnation and destruction.

## MISCELLANEOUS FOODS

**20948. Adulteration of pie filling. U. S. v. 19 Cases \* \* \*. (F. D. C. No. 35922. Sample No. 27027-L.)**

**LIBEL FILED:** October 15, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about August 5, 1953, from London, England.

**PRODUCT:** 19 cases, each containing 4 25-pound tins, of pie filling at San Francisco, Calif. Examination showed that the product was moldy and decomposed.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 30, 1953. Default decree of condemnation and destruction.

20949. Adulteration and misbranding of Erhaltungssalz (meat preservative).  
U. S. v. 1 Drum \* \* \*. (F. D. C. No. 35362. Sample No. 59433-L.)

LIBEL FILED: May 23, 1953, Western District of South Carolina.

ALLEGED SHIPMENT: On or about March 5, 1951, by Morris Laboratory Co., Inc., from New York, N. Y.

PRODUCT: 1 125-pound drum of Erhaltungssalz (meat preservative) at Greer, S. C.

LABEL, IN PART: (Drum) "Morris Erhaltungssalz Use: \* \* \* Prevents discoloration due to oxidation."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, thiourea, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: June 30, 1953. Default decree of condemnation and destruction.

20950. Misbranding of corn twists. U. S. v. 37 Cases, etc. (F. D. C. No. 35252. Sample Nos. 45235-L to 45238-L, incl.)

LIBEL FILED: May 15, 1953, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 24, March 2, and April 3 and 22, 1953, by Keystone Food Products, Inc., from Easton, Pa.

PRODUCT: 37 cases of peanut flavor corn twists, 12 cases of cheese flavor corn twists, 25 cases of onion flavor corn twists, and 19 cases of garlic flavor corn twists, at Boston, Mass.

LABEL, IN PART: "Overland Corn Twists Net Wt. 5 Oz. \* \* \* Peanut [or "Cheese," "Onion," or "Garlic"] Flavor."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the articles failed to bear labels containing an accurate statement of the quantity of the contents. (Examination showed the articles were short weight.)

DISPOSITION: September 23, 1953. Keystone Food Products, Inc., claimant, having consented to the entry of a decree, judgment was entered and the court ordered that the products be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

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<sup>1</sup> (20902) Prosecution contested.

<sup>2</sup> (20901) Injunction issued.





# THE

# FEDERAL REGISTER

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The contents of the FEDERAL REGISTER are required by the Federal Register Act to be judicially noticed. In this connection the Supreme Court of the United States in *Federal Crop Insurance Corporation v. Merrill* (332 U. S. 380) stated:

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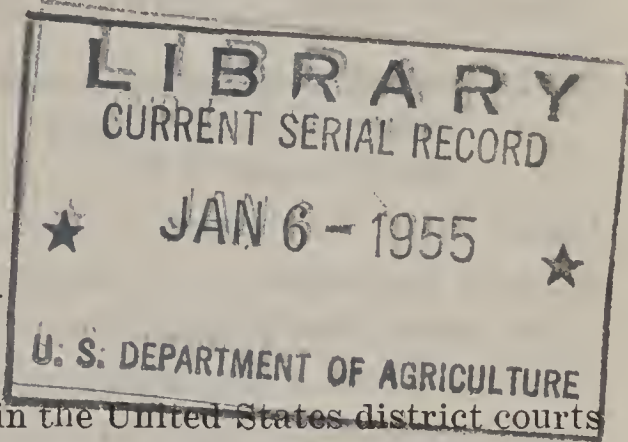
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,  
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

20951-21000

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *December 16, 1954.*

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**BEVERAGES AND BEVERAGE MATERIALS**

**20951. Adulteration of soft drinks. U. S. v. Samuel Houston McNutt. Plea of guilty. Fine of \$500, plus costs. (F. D. C. No. 35194. Sample Nos. 53584-L, 53585-L, 53604-L, 53606-L, 53607-L.)**

**INFORMATION FILED:** November 4, 1953, Western District of Kentucky, against Samuel Houston McNutt, a partner of the Nehi Bottling Co., Paducah, Ky.

**ALLEGED SHIPMENT:** On or about July 23 and 24, 1953, from the State of Kentucky into the State of Illinois.

**LABEL, IN PART:** (Bottle) "Royal Crown RC Cola Contents 10 Fluid Ozs.," "Nehi Imitation Grape Soda," "Nehi Lime-Lemon Soda," and "Nehi Strawberry Soda."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

**DISPOSITION:** April 9, 1954. The defendant having entered a plea of guilty, the court fined him \$500, plus costs.

**20952. Adulteration and misbranding of coffee. U. S. v. 72 Bags \* \* \* (and 1 other seizure action). (F. D. C. Nos. 34683, 34684. Sample Nos. 49973-L, 49974-L.)**

**LIBELS FILED:** February 25, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about February 11, 1953, by Louvain Coffee Co., Inc., from New York, N. Y.

**PRODUCT:** 100 1-pound bags of coffee at Newark, N. J.

**LABEL, IN PART:** (Bag) "1 Pound Net 100% Pure Louvain 'Time Of Your Life' Coffee Hotel Blend."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a cereal product had been substituted in whole or in part for coffee, which the article was represented to be.

Misbranding, Section 403 (a), the name "Coffee" was false and misleading as applied to the article, which contained an added cereal product.

**DISPOSITION:** July 13, 1953. Louvain Coffee Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for repacking and relabeling under the supervision of the Food and Drug Administration.

**20953. Adulteration of coffee sweepings. U. S. v. 20 Bags \* \* \*. (F. D. C. No. 27622. Sample No. 11549-L.)**

**LIBEL FILED:** August 2, 1949, Eastern District of New York.

**ALLEGED SHIPMENT:** On various dates from various foreign countries to Brooklyn, N. Y.

**PRODUCT:** 20 75-pound bags of coffee sweepings at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirt, wood splinters, matted fibers, and other miscellaneous debris. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** July 13, 1954. Arbuckle Jay Street Terminal, Inc., having appeared as claimant and later having withdrawn its claim, judgment of condemnation was entered and the court ordered that the product be destroyed.



**CEREALS AND CEREAL PRODUCTS****CORNMEAL**

**20954. Adulteration of cornmeal. U. S. v. 43 Cases, etc. (F. D. C. No. 35503. Sample No. 34548-L.)**

**LIBEL FILED:** September 25, 1953, Eastern District of Arkansas.

**ALLEGED SHIPMENT:** On or about June 6, 1953, from St. Joseph, Mo.

**PRODUCT:** 43 cases, each containing 5 10-pound bags, and 6 cases, each containing 10 5-pound bags, of cornmeal at Walnut Ridge, Ark.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 28, 1953. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

**FLOUR**

**20955. Adulteration of flour. U. S. v. 97 Bags \* \* \*. (F. D. C. No. 35505. Sample No. 62746-L.)**

**LIBEL FILED:** September 21, 1953, Western District of Tennessee.

**ALLEGED SHIPMENT:** On or about June 23, 1953, from Minneapolis, Minn.

**PRODUCT:** 97 100-pound bags of flour at Memphis, Tenn.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 5, 1953. E. J. Seeman, Memphis, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be shipped to the Southern Laminating Co., Memphis, Tenn., for conversion by the claimant into glue, under the supervision of the Department of Health, Education, and Welfare.

Thereafter, it appeared that the claimant had violated the terms and conditions of the decree of condemnation of November 5, in that the claimant had delivered the product to Tri-State Veneer & Plywood, Inc., Memphis, Tenn., rather than to the Southern Laminating Co., and that in its location at Tri-State Veneer & Plywood, Inc., it was impracticable and virtually impossible for the denaturing process to be supervised by a representative of the Department. It further appeared that part of the flour had been disposed of by Tri-State Veneer & Plywood, Inc. Accordingly, on November 18, 1953, the court entered an order modifying the decree of condemnation of November 5, to provide for the surrender of such portion of the product to the United States marshal as remained in the possession of Tri-State Veneer & Plywood, Inc., or the claimant or any other person.

**20956. Adulteration of flour. U. S. v. 52 Bags, etc. (F. D. C. No. 35399. Sample Nos. 59370-L, 59371-L.)**

**LIBEL FILED:** August 20, 1953, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about January 14 and May 15, 1953, from Lebanon, Ill., and Whitewater, Kans.

**PRODUCT:** 52 10-pound bags and 20 25-pound bags of flour at Tallahassee, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20957. Adulteration of flour. U. S. v. 4 Bags \* \* \*. (F. D. C. No. 35397. Sample No. 59372-L.)**

**LIBEL FILED:** August 20, 1953, Northern District of Florida.

**ALLEGED SHIPMENT:** On or about July 1, 1953, from Springfield, Ill.

**PRODUCT:** 4 100-pound bags of flour at Tallahassee, Fla.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** December 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

**20958. Adulteration of flour and unshelled walnuts. U. S. v. 20 Bags, etc. (F. D. C. No. 35921. Sample Nos. 19849-L, 19850-L.)**

**LIBEL FILED:** October 14, 1953, Southern District of Iowa.

**ALLEGED SHIPMENT:** On or about October 29, 1952, and prior to July 31, 1953, from Los Angeles, Calif., and Minneapolis, Minn.

**PRODUCT:** 20 50-pound bags of flour and 18 100-pound bags of unshelled walnuts at Ottumwa, Iowa, in possession of the Lagomarcino Grupe Co.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent urine and insects; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 19, 1953. The Lagomarcino Grupe Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. The products were examined, with the result that all of the flour and 223 pounds of the walnuts were found unfit and were denatured.

### MISCELLANEOUS CEREALS

**20959. Adulteration of unpopped popcorn. U. S. v. 10 Bags \* \* \*. (F. D. C. No. 35502. Sample No. 8596-L.)**

**LIBEL FILED:** September 23, 1953, Northern District of New York.



**ALLEGED SHIPMENT:** On or about March 26, 1953, from Atchison, Kans.

**PRODUCT:** 10 100-pound bags of unpopped popcorn at Cortland, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 9, 1953. Default decree of condemnation and destruction.

**20960. Adulteration of unpopped popcorn. U. S. v. 1 Bag, etc. (F. D. C. No. 35498. Sample No. 8597-L.)**

**LIBEL FILED:** September 23, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about March 26, 1953, from Atchison, Kans.

**PRODUCT:** 1 100-pound bag and 8 24-pound bags of unpopped popcorn at Syracuse, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 9, 1953. Default decree of condemnation and destruction.

**20961. Adulteration of rice. U. S. v. 18 Bags \* \* \*. (F. D. C. No. 35499. Sample No. 56122-L.)**

**LIBEL FILED:** September 21, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about May 25, 1953, from Stuttgart, Ark.

**PRODUCT:** 18 100-pound bags of rice at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 21, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

## DAIRY PRODUCTS

### BUTTER

**20962. Adulteration of butter. U. S. v. 101 Boxes (6,060 pounds) \* \* \*. (F. D. C. No. 35552. Sample No. 64869-L.)**

**LIBEL FILED:** On or about August 18, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 3, 1953, by the Steele County Creameries Association, from Rochester, Minn.

**PRODUCT:** 101 60-pound boxes of butter at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance and was made in part from filthy cream.

**DISPOSITION:** The H. C. Christians Co., Chicago, Ill., appeared as claimant and filed a motion for summary judgment to have the boxes of butter under seizure from churnings 1, 2, 30, and 31 released to the claimant on the grounds

that the Food and Drug Administration had found that the butter in those boxes was not adulterated as alleged in the libel. The matter came on for hearing, and it appearing to the court that the butter under seizure consisted of 7 churnings; that 3 of the churnings numbered 27, 28, and 29, consisting of 47 boxes, were adulterated as alleged in the libel; and that 4 of the churnings numbered 1, 2, 30, and 31, consisting of 54 boxes, were not adulterated, the court, on December 2, 1953, entered a decree of condemnation against all of the butter under seizure and ordered that the butter be released under bond for segregation of the adulterated churnings from the unadulterated churnings under the supervision of the Department of Health, Education, and Welfare.

As a result of the segregation operations, the 54 boxes of unadulterated butter were released to the claimant and the 47 boxes of adulterated butter were destroyed.

**20963. Adulteration of butter. U. S. v. 66 Cases \* \* \*. (F. D. C. No. 35846. Sample No. 45520-L.)**

**LIBEL FILED:** August 5, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about June 27, 1953, by the Beatrice Foods Co., from Galesburg, Ill.

**PRODUCT:** 66 cases, each containing 32 1-pound prints, of butter at Boston, Mass.

**LABEL, IN PART:** (Print) "Valley Farm Brand Butter \* \* \* Distributed By Beatrice Foods Co. General Office—Chicago, Illinois."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. (Examination showed that the article was prepared from decomposed cream.)

**DISPOSITION:** September 24, 1953. The Beatrice Foods Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into edible butter oil, under the supervision of the Department of Health, Education, and Welfare.

**20964. Adulteration of butter. U. S. v. 18 Boxes (1,080 pounds) \* \* \*. (F. D. C. No. 35556. Sample No. 66194-L.)**

**LIBEL FILED:** August 26, 1953, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about August 12, 1953, by Ravenwood Cooperative Creamery, Inc., from Ravenwood, Mo.

**PRODUCT:** 18 60-pound boxes of butter at Chicago, Ill.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance and was made from filthy cream.

**DISPOSITION:** October 14, 1953. Default decree of condemnation and destruction.

### CHEESE

**20965. Adulteration of cheese. U. S. v. Bangor Milk Products Co., Inc., and Herbert E. Wilson. Pleas of guilty. Fine of \$250 against corporation and \$1 against individual. (F. D. C. No. 35737. Sample No. 56093-L.)**

**INFORMATION FILED:** December 29, 1953, Northern District of New York, against Bangor Milk Products Co., Inc., Bangor, N. Y., and Herbert E. Wilson, secretary-treasurer of the corporation.



**ALLEGED VIOLATION:** On or about May 27, 1953, the defendants caused to be given to a firm engaged in the business of shipping cheese in interstate commerce, at Huevelton, N. Y., a guaranty to the effect that no article delivered to the holder of the guaranty would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about June 11, 1953, the defendants caused to be delivered to the holder of the guaranty, at Huevelton, N. Y., a quantity of cheese which was adulterated.

**LABEL, IN PART:** "New York State State Brand Whole Milk Cheese."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of manure fragments and insect and rodent hair fragments, and by reason of the use of filth-contaminated milk in the preparation of the article; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 26, 1954. The defendants having entered pleas of guilty, the court fined the corporation \$250 and the individual \$1.

## EGGS

20966. Adulteration of frozen eggs. U. S. v. 825 Cans \* \* \*. (F. D. C. No. 35511. Sample No. 69685-L.)

**LIBEL FILED:** September 25, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about June 9, 1953, by the Wayne Poultry & Egg Co., from Wayne, Nebr.

**PRODUCT:** 825 30-pound cans of frozen eggs at Denver, Colo.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** November 17, 1953. The Wayne Poultry & Egg Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the good portion from the bad, under the supervision of the Department of Health, Education, and Welfare.

As a result of the segregation operations, 110 cans of eggs were found unfit and were destroyed.

20967. Adulteration of frozen eggs. U. S. v. 500 Cans \* \* \*. (F. D. C. No. 35510. Sample No. 69684-L.)

**LIBEL FILED:** September 25, 1953, District of Colorado.

**ALLEGED SHIPMENT:** On or about August 31, 1953, by C. A. Swanson & Sons, from Omaha, Nebr.

**PRODUCT:** 500 30-pound cans of frozen eggs at Denver, Colo.

**LABEL, IN PART:** "Fine Quality Eggs Swanson Ever Fresh Brand Whole Eggs Quick Frozen."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

**DISPOSITION:** November 17, 1953. C. A. Swanson & Sons, claimant, having consented to the entry of a decree, judgment of condemnation was entered

and the court ordered that the product be released under bond for segregation of the good portion from the bad, under the supervision of the Department of Health, Education, and Welfare.

As a result of the segregation operations, 87 cans of eggs were found unfit and were destroyed.

## FISH AND SHELLFISH

**20968. Adulteration of frozen ocean catfish fillets. U. S. v. 50 Cartons, etc.**  
(F. D. C. No. 35644. Sample Nos. 45529-L, 45530-L.)

**LIBEL FILED:** September 17, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about September 3, 1953, by Fillets, Inc., from New York, N. Y.

**PRODUCT:** 50 cartons, each containing 24 1-pound packages, and 458 cartons, each containing 10 5-pound boxes, of frozen ocean catfish fillets at Boston, Mass.

**LABEL, IN PART:** (Package) "Snow Man Fillets Ocean Catfish (Skinless)"; (box) "Snow Man Brand Catfish Fillets."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

**DISPOSITION:** January 19, 1954. Default decree of condemnation and destruction.

**20969. Adulteration of crabmeat. U. S. v. 33 Cans \* \* \*. (F. D. C. No. 35851.**  
Sample No. 46809-L.)

**LIBEL FILED:** August 28, 1953, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about August 20, 1953, by Reuther's Seafood Co., Inc., from New Orleans, La.

**PRODUCT:** 33 cans of crabmeat at Dallas, Tex. Examination showed that the product was contaminated with *E. coli* of fecal origin.

**LABEL, IN PART:** "Reuther's One Pound Net Weight Crab Meat Seasoned With Salt."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), the article was prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** October 6, 1953. Default decree of condemnation and destruction.

**20970. Adulteration of crabmeat. U. S. v. 50 Cans \* \* \*. (F. D. C. No. 35860.**  
Sample No. 46808-L.)

**LIBEL FILED:** August 26, 1953, Southern District of Texas.

**ALLEGED SHIPMENT:** On or about August 19, 1953, by Reuther's Seafood Co., Inc., from New Orleans, La.

**PRODUCT:** 50 1-pound cans of crabmeat at Houston, Tex. Examination showed that the product was contaminated with *E. coli* of fecal origin.

**LABEL, IN PART:** "Reuther's \* \* \* Crab Meat Seasoned With Salt."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), the



article was prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 2, 1953. Default decree of condemnation and destruction.

**20971. Adulteration of oysters. U. S. v. 25 Cans \* \* \*. (F. D. C. No. 35650. Sample No. 57862-L.)**

**LIBEL FILED:** September 18, 1953, District of Maryland.

**ALLEGED SHIPMENT:** On or about September 9, 1953, by the York River Seafood Co., from Seaford, Va.

**PRODUCT:** 25 cans of oysters at Baltimore, Md.

**LABEL, IN PART:** "York River Seafood Co. Seaford, Va. Bay Brand Oysters Contents One Gallon."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of sour and decomposed oysters.

**DISPOSITION:** September 25, 1953. Since it appeared to the court that the product was a menace to public health and a nuisance and that it could not be preserved during the time customarily allowed for interested persons to intervene, judgment of condemnation was entered and the court ordered that the product be destroyed.

**20972. Adulteration of oysters. U. S. v. 284 Cans \* \* \*. (F. D. C. No. 35488. Sample No. 57700-L.)**

**LIBEL FILED:** September 16, 1953, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 14, 1953, by Bay Food Products Co., Inc., from Baltimore, Md.

**PRODUCT:** 284 ½-pint cans of oysters at Altoona, Pa.

**LABEL, IN PART:** "Cap'n John's Fresh Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** September 18, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization.

**20973. Adulteration of oysters. U. S. v. 134 Cans \* \* \*. (F. D. C. No. 35633. Sample No. 39047-L.)**

**LIBEL FILED:** September 16, 1953, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about September 8, 1953, by the Sanitary Seafood Co., from Crisfield, Md.

**PRODUCT:** 134 1-pint cans of oysters at Huntington, W. Va.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** October 27, 1953. Default decree of condemnation and destruction.

**20974. Misbranding of oysters. U. S. v. 204 Cans \* \* \*. (F. D. C. No. 35494. Sample No. 39053-L.)**

**LIBEL FILED:** September 17, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 14, 1953, by the J. M. Clayton Co., from Cambridge, Md.

**PRODUCT:** 204 cans of oysters at Lewistown, Pa.

**LABEL, IN PART:** "One U. S. Pint Veach Brand Oysters Packed by J. M. Clayton Co. Cambridge, Md. Oysters Standards."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short volume.)

**DISPOSITION:** October 19, 1953. Default decree of condemnation and destruction.

**20975. Misbranding of oysters. U. S. v. 144 Cans \* \* \*. (F. D. C. No. 35489. Sample No. 5769-L.)**

**LIBEL FILED:** September 17, 1953, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about September 14, 1953, by O. E. Wentworth & Co., from Baltimore, Md.

**PRODUCT:** 144 cans of oysters at Yorktown, Ind.

**LABEL, IN PART:** "One Pint Wentworth Triangle Brand Oysters Packed By O. E. Wentworth & Co. Baltimore, Md. Standards."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the article was short volume.)

**DISPOSITION:** September 24, 1953. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution.

**20976. Adulteration of canned shrimp. U. S. v. 173 Cases \* \* \*. (F. D. C. No. 35512. Sample No. 21463-L.)**

**LIBEL FILED:** September 25, 1953, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about September 16, 1953, by Reuther's Seafood Co., Inc., from New Orleans, La.

**PRODUCT:** 173 cases, each containing 24 cans, of shrimp at Wilkes-Barre, Pa.

**LABEL, IN PART:** (Can) "Marvelous Brand Small Shrimp Wet Pack Drained Wt. 5 Ozs."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

**DISPOSITION:** December 2, 1953. Default decree of condemnation and destruction.

**20977. Adulteration of canned shrimp. U. S. v. 130 Cases \* \* \*. (F. D. C. No. 35635. Sample Nos. 47752-L, 47753-L.)**

**LIBEL FILED:** September 14, 1953, District of Puerto Rico.

**ALLEGED SHIPMENT:** On or about September 2, 1953, by the American Sun Dried Shrimp Co., from Houma, La.

**PRODUCT:** 130 cases, each containing 24 cans, of shrimp at San Juan, P. R.



- LABEL, IN PART:** (Can) "Gulf Brand, Shrimp Wet Pack Drained Weight 5 Oz. Packed for Calvin Authement Houma, La."
- NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.
- DISPOSITION:** October 20, 1953. Default decree of forfeiture and destruction.
- 20978. Misbranding of canned shrimp. U. S. v. 23½ Cases \* \* \*. (F. D. C. No. 35477. Sample No. 61632-L.)**
- LIBEL FILED:** On or about September 14, 1953, District of Kansas.
- ALLEGED SHIPMENT:** On or about August 12, 1953, by the Deep South Packing Co., from New Orleans, La.
- PRODUCT:** 23½ cases, each full case containing 24 5-ounce cans, of shrimp at Kansas City, Kans.
- LABEL, IN PART:** "Shady River Brand Wet Pack Small Shrimp."
- NATURE OF CHARGE:** Misbranding, Section 403 (h) (2), the article purported to be and was represented as canned wet pack shrimp, and the article fell below the standard of fill for canned wet pack shrimp since the containers of the article were not so filled that the cut-out weight of the shrimp taken from each can was not less than 64 percent of the water capacity of the container; and the label failed to bear a statement that the article fell below such standard.
- DISPOSITION:** November 13, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions for consumption by the inmates.
- 20979. Misbranding of frozen breaded shrimp. U. S. v. 20 Cartons \* \* \*. (F. D. C. No. 35327. Sample No. 50104-L.)**
- LIBEL FILED:** June 17, 1953, Southern District of New York.
- ALLEGED SHIPMENT:** On or about June 2, 1953, by Chef's Products, Inc., from Paterson, N. J.
- PRODUCT:** 20 cartons, each containing 24 packages, of frozen breaded shrimp at Bronx, N. Y.
- LABEL, IN PART:** (Package) "Completely Cleaned Breaded Chef's Shrimp In The Basket Quick Frozen Ready to Fry Net Wt. 10 Ozs."
- NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Completely Cleaned" was false and misleading as applied to the article, which had not been completely cleaned but contained shrimp with the alimentary canal.
- DISPOSITION:** December 30, 1953. Chef's Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

## FRUITS AND VEGETABLES

### CANNED FRUIT

- 20980. Adulteration of canned blueberries. U. S. v. 46 Cases \* \* \*. (F. D. C. No. 36018. Sample No. 55705-L.)**
- LIBEL FILED:** December 8, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about August 21 and October 19, 1950, from North Sedgwick, Maine.

**PRODUCT:** 46 cases, each containing 24 14-ounce cans, of blueberries at Utica, N. Y. Examination showed that the article had undergone chemical decomposition.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 12, 1954. Default decree of condemnation and destruction.

**20981. Misbranding of canned peaches. U. S. v. 196 Cases \* \* \*. (F. D. C. No. 35414. Sample No. 63411-L.)**

**LIBEL FILED:** September 8, 1953, Southern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 18, 1953, by Roberts Bros., Inc., from Americus, Ga.

**PRODUCT:** 196 cases, each containing 24 cans, of peaches at Galesburg, Ill.

**LABEL, IN PART:** (Can) "Roberts Big R Brand Halves Yellow Freestone Peaches in Heavy Syrup Contents 1 Lb. 12 Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peaches since the article failed to meet the specifications for tenderness, weight, and trimming prescribed in the standard, and the label failed to bear a statement that the article fell below such standard. The standard provides that for canned peach halves all units tested in accordance with the prescribed method are pierced by a weight of not more than 300 grams; that the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein; and that all peach units are untrimmed or are so trimmed as to preserve their normal shape.

**DISPOSITION:** December 17, 1953. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

### DRIED FRUIT

**20982. Adulteration of pitted dates. U. S. v. 19 Cases \* \* \*. (F. D. C. No. 35493. Sample No. 65224-L.)**

**LIBEL FILED:** On or about September 22, 1953, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about November 5, 1952, from New York, N. Y.

**PRODUCT:** 19 70-pound cases of pitted dates at Dubuque, Iowa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insect infestation. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 20, 1953. Default decree of condemnation. The court ordered that the product be sold, conditioned that it be denatured or otherwise reprocessed, under the supervision of the United States marshal, into animal feed; or, if the product could not be sold, that it be delivered to a public institution, for use as animal feed.



**20983. Adulteration of prunes. U. S. v. 55 Cartons \* \* \*. (F. D. C. No. 35496. Sample No. 8599-L.)**

**LIBEL FILED:** September 19, 1953, Northern District of New York.

**ALLEGED SHIPMENT:** On or about October 15, 1952, from San Francisco, Calif.

**PRODUCT:** 55 30-pound cartons of prunes at Syracuse, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** November 9, 1953. Default decree of condemnation and destruction.

**20984. Adulteration of seedless raisins. U. S. v. 40 Boxes \* \* \*. (F. D. C. No. 35495. Sample No. 56127-L.)**

**LIBEL FILED:** September 18, 1953, Western District of New York.

**ALLEGED SHIPMENT:** On or about April 3, 1953, from Selma, Calif.

**PRODUCT:** 40 30-pound boxes of seedless raisins at Buffalo, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** October 21, 1953. Default decree of condemnation and destruction.

### FRESH FRUIT

**20985. Adulteration of fresh blueberries. U. S. v. 4 Crates \* \* \*. (F. D. C. No. 35850. Sample No. 45563-L.)**

**LIBEL FILED:** August 18, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 16, 1953, by Edgar Brown, from Harrington, Maine.

**PRODUCT:** 4 crates, each containing 32 1-quart boxes, of fresh blueberries at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Examination showed that the article contained maggots.)

**DISPOSITION:** September 8, 1953. Default decree of condemnation and destruction.

**20986. Adulteration of fresh blueberries. U. S. v. 5 Crates \* \* \*. (F. D. C. No. 35847. Sample No. 45560-L.)**

**LIBEL FILED:** August 18, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 16, 1953, by Fred Diesto, from Harrington, Maine.

**PRODUCT:** 5 crates, each containing 24 1-quart boxes, of fresh blueberries at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Examination showed that the article contained maggots.)

**DISPOSITION:** September 8, 1953. Default decree of condemnation and destruction.

**20987. Adulteration of fresh blueberries. U. S. v. 5 Crates \* \* \*. (F. D. C. No. 35849. Sample No. 45562-L.)**

**LIBEL FILED:** August 18, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 16, 1953, by Gay Brothers, from Jonesboro, Maine.

**PRODUCT:** 5 crates, each containing 24 1-quart boxes, of fresh blueberries at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Examination showed that the article contained maggots.)

**DISPOSITION:** September 8, 1953. Default decree of condemnation and destruction.

**20988. Adulteration of fresh blueberries. U. S. v. 5 Crates \* \* \*. (F. D. C. No. 35848. Sample No. 45561-L.)**

**LIBEL FILED:** August 18, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 16, 1953, by Melvin Grant, from Cherryfield, Maine.

**PRODUCT:** 5 crates, each containing 24 1-quart boxes, of fresh blueberries at Boston, Mass.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Examination showed that the article contained maggots.)

**DISPOSITION:** September 8, 1953. Default decree of condemnation and destruction.

## VEGETABLES AND VEGETABLE PRODUCTS

**20989. Misbranding of frozen lima beans. U. S. v. Michigan Frosted Foods Co. and Floyd R. Beutel. Pleas of guilty. Fine of \$500 against company; fine of \$100 and suspended sentence of 1 year in jail against individual. (F. D. C. No. 35756. Sample No. 59095-L.)**

**INFORMATION FILED:** April 9, 1954, Eastern District of Michigan, against the Michigan Frosted Foods Co., a corporation, Bay City, Mich., and Floyd R. Beutel, president of the corporation.

**ALLEGED SHIPMENT:** On or about April 3, 1953, from the State of Michigan into the State of Georgia.

**LABEL, IN PART:** (Carton) "Thrif-T-Pak [vignette depicting baby lima beans of uniform green color] frozen fresh Baby Lima Beans Net Wt. 10 Oz. Packed for: Thrif-T-Pak Corp., Atlanta, Ga."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statement "frozen fresh Baby Lima Beans" and the vignette depicting baby lima beans of uniform green color displayed on the carton containing the article were false and misleading since the article was not frozen fresh baby lima beans of uniform color but was frozen dry soaked lima beans of medium size and nonuniform color.



**DISPOSITION:** April 22, 1954. Pleas of guilty having been entered, the court imposed a fine of \$500 against the corporation and a fine of \$100 against the individual. A sentence of 1 year in jail against the individual was suspended.

**20990. Adulteration of canned sweetpotatoes. U. S. v. 28 Cases \* \* \*. (F. D. C. No. 35706. Sample No. 59781-L.)**

**LIBEL FILED:** October 9, 1953, Middle District of North Carolina.

**ALLEGED SHIPMENT:** On or about September 10, 1953, by H. E. Kelley & Co., Inc., from Norfolk, Va.

**PRODUCT:** 28 cases, each containing 6 cans, of sweetpotatoes at Durham, N. C.

**LABEL, IN PART:** (Can) "Kelley's Whole Sweet Potatoes In Syrup Contents 6 Lbs. 6 Oz."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 13, 1953. Default decree of condemnation and destruction.

**20991. Adulteration of canned sauerkraut. U. S. v. Storey Food Products Co. and James F. Storey. Pleas of guilty. Fine of \$1,000 against each defendant; fine against James F. Storey to be remitted upon payment of fine against corporation. (F. D. C. No. 35835. Sample Nos. 70007-L, 70008-L.)**

**INFORMATION FILED:** June 14, 1954, District of Utah, against the Storey Food Products Co., a corporation, Ogden, Utah, and James F. Storey, president of the corporation.

**ALLEGED SHIPMENT:** On or about October 27, 1953, from the State of Utah into the State of Idaho.

**LABEL, IN PART:** (Can) "Big S SauerKraut Made from Crisp White Morgan Cabbage Storey Food Products Co. Growers—Packers—Distributors Ogden, Utah."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, aphids, and thrips; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** June 30, 1954. The defendants having entered pleas of guilty, the court imposed a fine of \$1,000 against the corporation and \$1,000 against the individual, and ordered that the fine imposed against the individual be remitted upon the payment of the fine against the corporation.

### TOMATOES AND TOMATO PRODUCTS

**20992. Adulteration of canned tomatoes. U. S. v. Miles A. Brown (Brown Canning Co.). Plea of guilty. Fine, \$1,000. Defendant also sentenced to 1 year in jail, which sentence was suspended, and placed on probation for 5 years. (F. D. C. No. 35108. Sample Nos. 53429-L, 54340-L, 66683-L, 66836-L.)**

**INFORMATION FILED:** August 6, 1953, District of Delaware, against Miles A. Brown, trading as the Brown Canning Co., Woodside, Del.

**ALLEGED SHIPMENT:** On or about August 27 and September 9, 18, and 20, 1952, from the State of Delaware into the States of Illinois, Michigan, and Pennsylvania.

**LABEL, IN PART:** (Can) "Pride of the Farm Brand Contents 1 Lb. 3 Oz. Tomatoes Thomas Roberts & Co., Inc. Distributors—Not Manufacturers Philadelphia, Pa." and "Contents 1 Lb. 3 Oz. Co-Rel Brand Tomatoes Reliable Grocery Co., Inc. Distributors Phila., Pa."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** The defendant filed a waiver of jurisdiction and consent to the transfer of the case to the United States District Court for the Southern District of Florida, for purposes of plea and sentence; and, on May 5, 1954, upon defendant's plea of guilty, this court imposed a fine of \$1,000 against the defendant and sentenced him to 1 year in prison, which was suspended, and placed the defendant on probation for 5 years.

**20993. Adulteration of canned tomatoes. U. S. v. 414 Cases \* \* \*. (F. D. C. No. 35730. Sample No. 73527-L.)**

**LIBEL FILED:** October 15, 1953, Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about August 28, 1953, by J. Richard Phillips, Jr., & Son, Inc., from Magnolia, Del.

**PRODUCT:** 414 cases, each containing 6 cans, of tomatoes at Philadelphia, Pa.

**LABEL, IN PART:** (Can) "Penn Tomatoes Contents 6 pounds 6 ounces."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** January 5, 1954. Default decree of condemnation and destruction.

**20994. Misbranding of tomato paste and tomato puree. U. S. v. Taormina Co. Plea of guilty. Fine, \$300. (F. D. C. No. 35816. Sample Nos. S595-L, 22449-L, 22450-L.)**

**INFORMATION FILED:** May 3, 1954, Southern District of Texas, against the Taormina Co., a partnership, Donna, Tex.

**ALLEGED SHIPMENT:** On or about July 18 and October 6, 1953, from the State of Texas into the States of New York and Louisiana.

**LABEL, IN PART:** (Can) "Tomato Paste Salsadipomidoro Polly Brand Contents Six Ounces" and "Buffalo Brand Tomato Puree Net Weight 4¾ Oz."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity for tomato paste and tomato puree since the tomato paste contained less than 25 percent of salt-free tomato solids and since the tomato puree contained less than 8.37 percent of salt-free tomato solids, the minimums permitted by the definitions and standards.

**DISPOSITION:** May 10, 1954. The defendant having entered a plea of guilty, the court fined it \$300.



## MEAT AND POULTRY

**20995. Adulteration of dressed rabbits. U. S. v. Vincent Piazza (Paul Piazza & Son), and Joe Piazza. Pleas of guilty. Each defendant fined \$150 and placed on probation for 2 years. (F. D. C. No. 35112. Sample No. 62513-L.)**

**INFORMATION FILED:** July 31, 1953, Western District of Missouri, against Vincent Piazza, trading as Paul Piazza & Son, Springfield, Mo., and Joe Piazza, an employee in the business.

**ALLEGED SHIPMENT:** On or about January 7, 1953, from the State of Missouri into the State of Louisiana.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fecal matter.

**DISPOSITION:** March 24, 1954. The defendants having entered pleas of guilty, the court fined each defendant \$150 and placed each on probation for 2 years.

**20996. Adulteration of dressed poultry. U. S. v. 196 Pounds \* \* \*. (F. D. C. No. 35720. Sample No. 51929-L.)**

**LIBEL FILED:** October 14, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about October 2, 1953, by the Mandata Poultry Co., from Herndon, Pa.

**PRODUCT:** 196 pounds of dressed poultry in 3 crates at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

**DISPOSITION:** January 14, 1954. Default decree of condemnation and destruction.

**20997. Adulteration of frozen turkeys. U. S. v. 10 Turkeys \* \* \*. (F. D. C. No. 35723. Sample Nos. 45205-L, 45732-L.)**

**LIBEL FILED:** October 13, 1953, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 11, 1953, by R. B. Hall, Inc., from Jersey City, N. J.

**PRODUCT:** 10 frozen turkeys in 3 boxes at Lynn, Mass.

**LABEL, IN PART:** (Box) "Young Drawn T. Turks A. Feldstein & Co. Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for frozen turkeys; and, Section 402 (b) (4), water had been added to the article or mixed or packed with it so as to increase its bulk or weight or reduce its quality or strength.

**DISPOSITION:** January 19, 1954. Default decree of condemnation and destruction.

## OLEOMARGARINE

**20998. Possession and serving of colored oleomargarine or colored margarine. U. S. v. David E. Lemay and Ida I. Lemay (Dave's Seafood Restaurant). Pleas of guilty. Each defendant fined \$25 and placed on probation for 1 year. (F. D. C. No. 35745. Sample Nos. 45541-L, 45542-L.)**

**INFORMATION FILED:** December 28, 1953, District of Rhode Island, against David E. Lemay and Ida I. Lemay, partners in the partnership of Dave's Seafood Restaurant, Portsmouth, R. I.

**ALLEGED VIOLATION:** On or about August 12, 1953, at Portsmouth, R. I., the defendants unlawfully possessed and served quantities of colored oleomargarine or colored margarine.

**NATURE OF CHARGE:** Colored oleomargarine or colored margarine was possessed by the defendants in violation of Section 407 (c), in that the article was possessed at a public eating place, namely, Dave's Seafood Restaurant, and was in a form ready for serving, and a notice that oleomargarine or margarine was being served was not displayed prominently and conspicuously, or at all, in such public eating place, and such notice was not printed or otherwise set forth on the menu at such public eating place.

Colored oleomargarine or colored margarine was served by the defendants in violation of Section 407 (c), in that the article was served at a public place, namely, Dave's Seafood Restaurant, and was a separate serving which (1) did not bear and was not accompanied by labeling identifying it as oleomargarine or margarine, or (2) was not triangular in shape.

**DISPOSITION:** January 19, 1954. The defendants having entered pleas of guilty, the court fined each defendant \$25 and placed each on probation for 1 year.

## VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

**20999. Adulteration and misbranding of vitamin capsules. U. S. v. 12 Bottles, etc.** (F. D. C. No. 34913. Sample No. 17243-L.)

**LIBEL FILED:** March 30, 1953. Southern District of California.

**ALLEGED SHIPMENT:** On or about May 15 and 31, 1951, from New York, N. Y.

**PRODUCT:** 12 1,000-capsule bottles of vitamin capsules at Los Angeles, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B<sub>1</sub>, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Vitamin B<sub>1</sub> \* \* \* 1 Mg. 333 U. S. P. Units One Capsule provides the minimum adult daily requirements of Vitamin B<sub>1</sub>" was false and misleading as applied to the article, which contained less than the declared amount of vitamin B<sub>1</sub>.

The article was alleged to be adulterated and misbranded while held for sale after shipment in interstate commerce.

The libel alleged also that another lot of vitamin capsules was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4254.

**DISPOSITION:** July 23, 1953. The American Pharmaceutical Co., New York, N. Y., claimant, having consented to the entry of a decree, the court ordered that a portion of the vitamin capsules having the status of drugs be released to the claimant and that the remainder of the vitamin capsules having the status of drugs and all of the vitamin capsules having the status of foods be condemned and destroyed.

**21000. Misbranding of artificial mineral water. U. S. v. 366 Cases, etc.** (F. D. C. No. 34961. Sample No. 57047-L.)



**LIBEL FILED:** April 24, 1953, Northern District of Ohio; amended libel filed May 26, 1953.

**ALLEGED SHIPMENT:** On or about April 28, 1953, by Nuvi-T-Min, Inc., from Gordonville, Pa.

**PRODUCT:** 366 cases, each containing 2 1-gallon bottles, of artificial mineral water at Toledo, Ohio, together with a number of accompanying pamphlets entitled "Functions of Minerals in Nutrition."

Analyses showed that the article consisted of approximately 99.5 percent water and 0.5 percent dissolved mineral matter, nearly all of which was sodium sulfate, and that there were but inconsequential traces of other minerals.

**LABEL, IN PART:** (Bottle) "Nuvi-T-Min, Inc. Artificial Mineral Water."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the statements on the label of the article, namely, "Minerals Added Potassium Diphosphate, Calcium Phosphate, Magnesium Phosphate \* \* \* Silicon Dioxide, Sodium Phosphate \* \* \* Zinc Sulphate, Sodium Sulphate, Manganese Chloride, Ferric Phosphate, Cobalt Sulphate, Potassium Chloride," and certain statements in the above-mentioned accompanying pamphlet, which referred to chlorine, fluorine, cobalt, manganese, zinc, and copper, were misleading. The statements represented and suggested that the named substances contributed to the nutritional properties of the article, whereas such substances did not contribute to the nutritional properties of the article and such misleading impression was not corrected by the statement on the margin of the label "Calcium Hydroxide and Sodium Sulfate predominate in this water. Other mineral elements present in minute quantities."

Further misbranding, Section 403 (a), the label designation "Nuvi-T-Min" was false and misleading since it represented and suggested that the article contained vitamins, whereas the article contained no vitamins; and the false and misleading representation and suggestion was not corrected by the statement on the margin of the label "This Mineral Water does not contain vitamins."

Further misbranding, Section 403 (j), the article purported to be a food for special dietary use by reason of its mineral content, and its label failed to bear, as required by the regulations, a statement of the amounts of the mineral elements, listed upon the label as ingredients, supplied by the article when consumed in a specified quantity during a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4234.

**DISPOSITION:** July 16, 1953. Nuvi-T-Min, Inc., and W. R. Devlin, Gordonville, Pa., the owners of the product, having appeared as claimants, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

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The contents of the FEDERAL REGISTER are required by the Federal Register Act to be judicially noticed. In this connection the Supreme Court of the United States in *Federal Crop Insurance Corporation v. Merrill* (332 U. S. 380) stated:

"Just as everyone is charged with knowledge of the United States Statutes at Large, Congress has provided that the appearance of rules and regulations in the FEDERAL REGISTER gives legal notice of their contents."

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